Commentary
January 2003

An Emerging Republican Majority?
Daniel Casse

Israel's Last Line of Defense
Fiamma Nirenstein

Who's Afraid of Leon Kass?
Gary Rosen

Telecom Undone—A Cautionary Tale
Peter W. Huber

Watching Christopher Hitchens
Mark Falcoff

Jews and Photography
William Meyers

Jazz as Modern Art
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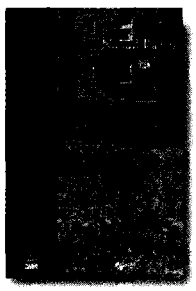

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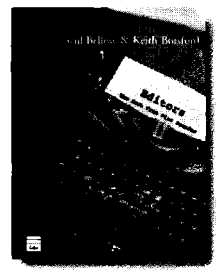

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Commentary
January 2003

Letters from Readers

Iraq, etc.

To the Editor:

Although Norman Podhoretz makes a compelling case for what he calls the Bush Doctrine ["In Praise of the Bush Doctrine," September 2002], there are several issues that the President has so far failed to address as the administration gears up to extend the war against terrorism into Iraq. A preemptive strike against Iraq may be warranted in principle, but the wisdom of such a strike will remain questionable until President Bush explains his position more fully.

To begin with, he needs to confront in a more serious way Saudi complicity in fostering global terrorism. The Iraqi connection to the September 11 attacks is thin at best, while fifteen of the nineteen hijackers came from Saudi Arabia. Until this issue is addressed, it will be difficult to dispel the suspicion that the President is simply engaged in a grudge match with Saddam Hussein.

Bush and his team need to be clearer, too, about how an American assault on Iraq will affect Israel's security, since that country will surely be on the front line of Saddam's chemical and biological retaliation. The administration should also acknowledge that the principal supporter of Palestinian terrorism today is not Iraq but Iran, which is the puppet-master behind Hizbullah and Hamas and the source of the enormous build-up of weapons on the Syrian-Israeli border.

Finally, the American people are owed an honest accounting of the results so far of the war in Afghanistan. Although American and allied forces successfully ousted the Taliban, the big fish seem to have gotten away: we do not know the fate of Osama bin Laden or Mullah Omar, though their capture or death was originally deemed vital. Even more importantly, we have good reason to believe that the financial and organizational structure of al Qaeda has not been sufficiently disrupted. What is the rationale for undertaking a second, even riskier front when the first phase of the war seems far from over?

Steven B. Smith
Yale University
New Haven, Connecticut

To the Editor:

America's obligations under international law have scarcely been noticed by the Bush administration in forming policy on Iraq, and Norman Podhoretz's appraisal of that policy is similarly indifferent. The administration doubtless thinks that the justification for a preemptive strike is supplied by the right of *anticipatory* self-defense. But international law, including article 51 of the UN charter (confirming an "inherent" right of self-defense against "armed attack"), is far from clear about the existence of such a right.

Few authorities on international law would hold that a state must allow itself to be a sitting duck. On the other hand, few would hold that the U.S. may go to war on the administration's mere assertion that Iraq possesses weapons of mass destruction. If we are to establish the legitimacy of preemptive self-defense, it must be based on proof that we face an indubitable, gravely perilous threat that demands immediate response.

Joseph D. Becker
New York City

To the Editor:

I appreciate the President's principled stand—condemning moral relativism, taking the war to the nations that sponsor terrorism, and asserting America's right of preemption. But in praising the Bush Doctrine, Norman Podhoretz minimizes its destructive aspects for Israel. Under this doctrine, the U.S. has thwarted Israel's attempt to rout

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terrorism, fostered the establishment of a Palestinian state, coddled the Syrians, and, more generally, curtailed Israel's sovereign right to self-defense. I can understand why the President would subsume the interests of Israel within the American war effort, but I cannot understand why Mr. Podhoretz does the same.

LYNN FIELD
Monroe Township, New Jersey

TO THE EDITOR:

Like Norman Podhoretz, I have high hopes for the Bush Doctrine, which recognizes evil when it sees it. But over the last year the President has not always been ready to translate doctrine into deed, and has too often given in to pressure. I wish I were as sure as Mr. Podhoretz seems to be that when push comes to shove Bush will do better.

RICHARD DURANT
Grosse Pointe, Michigan

TO THE EDITOR:

As Norman Podhoretz suggests, the only enduring solution to the Middle East muddle is a complete political, economic, judicial, and educational makeover in the region. But all our efforts will come to naught if the U.S. tries to work within the existing state structure of the Middle East. The Arab countries are artificial constructs, originally hacked from the corpse of the Ottoman Empire by Britain and France. These petty tyrannies in no way reflect the ethnic, linguistic, or religious facts on the ground. No Arab—and certainly no Kurd—feels loyalty to those arbitrary lines on the map. The historical record clearly indicates that true peace is possible only when state and ethnic boundaries more or less coincide.

GORDON C. GALLAND
London, Ontario Canada

TO THE EDITOR:

Norman Podhoretz is to be applauded for his lucid analysis of the Bush Doctrine. As for the moral standing of preemptive action, one should note that, prior to the 20th century, when preparation for war was a slow process and easily detected, there was no need for precipitous action by a potential target of aggression. Countries could afford to wait while preparing their own defenses. Today, with air power and missiles, no threatened nation can afford to wait for the knockout blow. Self-preservation demands a preemptive strike as soon as there is credible evidence of the potential aggressor's intention.

RABBI JOSHUA O. HABERMAN
Foundation for Jewish Studies
Rockville, Maryland

TO THE EDITOR:

I hope Norman Podhoretz's brilliant article is widely read in Washington. By highlighting President Bush's insightful statements on terrorism—still not sufficiently appreciated even by many of his own supporters—he performs a great public service.

ED KOCH
New York City

TO THE EDITOR:

Norman Podhoretz's eloquent article has done much to clarify my thinking on the global war in which we are engaged. He has drawn many threads together into a formidable tapestry. It is not often that I take the trouble of making copies of an article to share with friends and relatives.

DAVID J. CROOK
Coatesville, Pennsylvania

NORMAN PODHORETZ writes:

Toward the end of "In Praise of the Bush Doctrine," I said that the count was not yet in on whether Bush would walk the walk as well as he had talked the talk. As of the last week in November, the count is still not in, and I find myself less optimistic now—and closer to the skepticism voiced above by Richard Durant—than I was when I wrote those cautionary words. My heart started sinking when Bush, in his speech to the UN, opened the door to another farcical gavotte of inspections, not only because I feared that this would lead to a tying of his hands, but also because he was implicitly acknowledging the moral and legal authority of the Security Council. The Security Council: a body on which *Syria*—recognized as a sponsor of terrorism even by our own State Department—is permitted to sit. By the same token, how can a resolution which won the support of Syria—and, for that matter, France—really amount to the triumph for Bush that some have seen in it? If anything, the passage of this resolution, and Saddam Hussein's transparently deceptive "acceptance" of it, have deepened the fears that Bush's speech at the UN first aroused in me.

Yet no sooner do I begin surrendering to these fears than I am brought up short by doubts coming from the opposite direction. Am I inadvertently making the common mistake of underestimating Bush? Does he perhaps know exactly what he is doing? Is it perhaps the UN that has fallen into a trap set by the President rather than the other way around?

Well, the answers to these questions will be revealed in due course. Meanwhile, let me comment briefly on some of the questions raised in the letters above.

The very fact that al Qaeda has not—yet!—mounted another attack on the U.S. would seem to show that it has been more grievously damaged than Steven B. Smith suggests. And while I agree with Mr. Smith about Saudi Arabia and Iran, I think that toppling Saddam Hussein would have a benevolent domino effect on those two countries (and others throughout the Middle East). Iran, for example, is ripe for an internal insurrection against the mullahs that I believe would be hastened by a regime change in Iraq. Saudi Arabia is admittedly a trickier problem. But if the United States does indeed make a serious effort to implement the Bush Doctrine, the complete makeover of the entire region envisaged in my article, and advocated by Gordon C. Galland, would inevitably encompass the Saudi regime as well.

Both Mr. Smith and Lynn Field are more worried about the danger to Israel of an American attack on Iraq than most Israelis seem to be. Public opinion in Israel strongly supports such an attack, and the Israeli military is confident that it can successfully cope with the fallout. Moreover, my impression is that, unlike Lynn Field, most Is-

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raelis also understand that the Bush Doctrine is good for them in two major respects. First (as I argued at length in my article), it assimilates Israel's struggle against terrorism into our own; and second, it recognizes that the Middle East conflict involves not just the Palestinians but is in reality a war being waged by the entire Arab world with the aim of wiping Israel off the map.

There is no denying that here, too, Bush's deeds have not always matched his words. But as with the larger picture, we have to wait and see where his pattern of one-step-forward-two-steps-back will ultimately wind up.

On the question of international law, I am with Rabbi Joshua O. Haberman and against Joseph D. Becker. I must, however, confess that I am wary of appeals to international law because they can so easily serve to disarm democracies and the victims of aggression rather than restrain despots and the perpetrators of aggression. Here is how Winston Churchill once put it in the 1930's: "Acting in the name of the . . . League [of Nations] and all it stands for, we have a right, indeed are bound in duty, to abrogate for a space some of the conventions of the very laws we seek to consolidate and reaffirm. . . . It would not be right or rational that the aggressive power should gain one set of advantages by tearing up all laws, and another set by sheltering behind the innate respect for law of its opponents."

Finally, my thanks to Ed Koch and David J. Crook for their great generosity. I feel confident that they join me in hoping that Bush's walk—even if it takes a more circuitous path than we would prefer—will in the end prove to have been decisively guided by his talk.

A Resurgent Hatred

TO THE EDITOR:

The invaluable Ruth R. Wisse has produced another invaluable essay in "On Ignoring Anti-Semitism" [October 2002]. But, with the deepest respect, I question her focus on artifacts like an article by Leon Wieseltier in the *New Republic* and on attitudes of liberal academics like Tony Judt and liberal media like the *New York Times*. This seems to me to have the unintended effect of portraying the problem more as an aspect of the culture wars than as a matter of great political, diplomatic, and even military import.

Surely the most striking fact that belongs under the heading of "ignoring anti-Semitism" is the utter failure of either the Bush administration or its loyal opposition to acknowledge, much less to confront, the fact that anti-Semitism is the fuel that turns the engine of the "evil ones," the people who committed the outrages of 9/11, who killed Daniel Pearl, who threaten jihad, and who murder Israeli children. Anti-Semitism is the ideological glue that holds together the otherwise much-conflicted factions of the terrorist front.

In light of this, where is the speech by President Bush demanding that Arab states abandon their relentless incitement to hatred of Jews, and that "moderate" Muslims repudiate the anti-Semitic speeches emanating from their state-sanctioned religious establishments—a presidential speech making the case that, as Ruth Wisse rightly points out, anti-Semitism is not only wrong in itself but an attack on the whole Western value system? Where is Defense Secretary Rumsfeld's announcement that anti-Semitism gives aid and comfort to our military enemies? Where is Condoleezza Rice's public statement of our government's strategic aversion to regimes that keep themselves in power by encouraging and rewarding anti-Semitism and fanning vain hopes that Israel will vanish from the map? In short, why isn't a "war on anti-Semitism" part of our "war on terrorism"? And how serious is our war on terrorism as long as it is not?

The failure to make this case, and not merely disagreements among members of the chattering class, seems to me the most worrisome instance of "ignoring anti-Semitism."

MICHAEL W. SCHWARTZ
New York City

TO THE EDITOR:

Ruth R. Wisse correctly explains that violence against Jews in the last century proved to be "just a warm-up act to farther-reaching political ambitions," with catastrophic consequences in the cases of Germany and the USSR. Now we are seeing much the same thing with Arab terrorism.

But she misidentifies the root cause of the war waged by murderous totalitarian regimes against the Jews. While it is true that for anti-Semites the Jews personify modern freedoms and liberal-democratic culture, these are but modern manifestations of the most ancient Jewish principles: that this universe has a Master, an Eternal Judge who defines good and evil and who created man in His image, thus endowing him with inalienable rights. The Hitlers, Stalins, and Arafats of this world find intolerable this abstract reality that the Jews genuinely and proudly represent.

EINAT GOTLIEB
Jerusalem, Israel

TO THE EDITOR:

I thank Ruth R. Wisse for her clarity. We will all deeply regret it if her article is not taken very seriously.

The condemnation of Israeli behavior by many Christians can be understood, I think, as a cover-up for the deep-seated and ongoing Christian contempt for Jews and Judaism. I am forced to wonder if there is a connection between the Arab war against the Jews and the Christian teaching on the need for Jews to convert. There is a difference, of course, between extermination and conversion, but the result is the same—no Jews.

REV. WALTER L. MICHEL
Lutheran School of Theology
Chicago, Illinois

TO THE EDITOR:

Is Ruth R. Wisse correct that the anti-Semitism currently promulgated and supported by the Arab world is at least as dangerous as Nazi anti-Semitism of the 1930's? Or is Leon Wieseltier correct that American Jews are engaged in groundless "ethnic panic"? The answer is critical, but there is a key difference between the two views.

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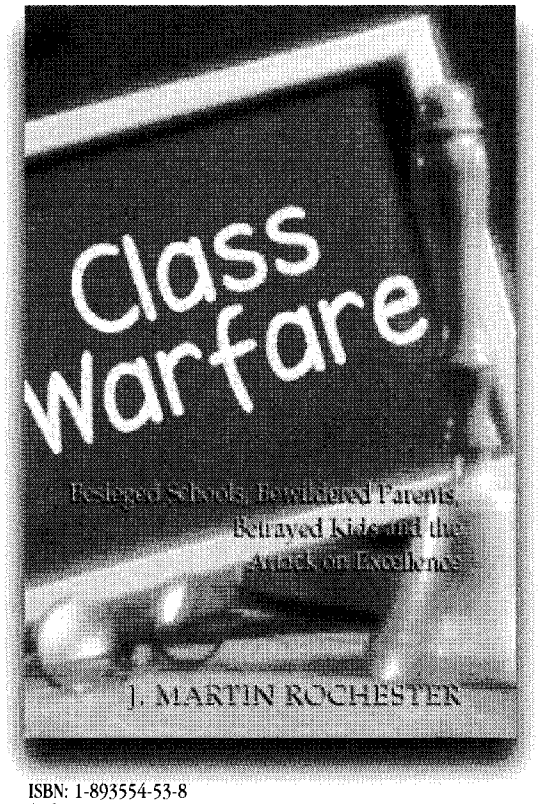

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If Ruth Wisse is wrong, then she and others are guilty, as she says in summarizing Wieseltier's view, of "stoking unwarranted and apocalyptic fears," but the Jews will survive. If Wieseltier is wrong, and we act on his advice, the Jewish future is in question. Jewish survival demands that we do exactly what Wieseltier, Tony Judt, and others warn against: we must "indulge" ourselves in "existential angst."

IAN SCHORR
Dover, New Jersey

TO THE EDITOR:

Ruth R. Wisse squarely counters the liberal bias that not only views the fear of a "new anti-Semitism" as hysteria and overreaction but that scapegoats Israel for the blight and repression of the Arab world. One is accustomed to such highly personal and hyperbolic arguments from Leon Wieseltier. But how to excuse the ever-discerning Tony Judt for making such slapdash equivalences, as when he attempts to put Arab terrorism into perspective by asserting that "Jewish terrorists were among the founders of the state of Israel"? Having followed and admired Judt's writings, I long ago concluded that what he omits of European history is probably not worth knowing. What he omits of the Middle East conflict, however, is the very nub of the matter.

JEFFREY M. DUBAN
New York City

TO THE EDITOR:

In her fine essay, Ruth R. Wisse writes that the "Ochs-Sulzberger families have since apologized for the 'meager coverage' the [*New York*] *Times* gave to the Holocaust as it was unfolding." When? Where? What explanation was given?

As a Jewish child on the Brooklyn waterfront during the 1930's, and as a veteran of World War II, I should have known that news of the Holocaust was being withheld. But if those horrible rumors were not reported in the *Times*, I thought, how true could they be?

J. INCHARDI
Brunswick, Maine

TO THE EDITOR:

Ruth R. Wisse's larger point about the *New York Times* cannot be debated, but it seems a little unfair to besmirch the brave efforts of Otto Tolischus, the *Times*'s man in Berlin, and G.E.R. Gedye, the paper's Vienna correspondent, with the brush rightly used to tar its owner and publisher.

Tolischus and Gedye were personae *very* non gratae in Germany and Austria, and they reported what they reported, including about the Nazis' racial policy, at no small risk to themselves. Of course, they did not write editorials, but they did write feature articles that were not (contrary to researchers like David S. Wyman) hidden in small print on the back pages. Even today their efforts are more instructive than many books churned out by scholars afraid to antagonize the families or firms that endow their chairs.

In any event, all I wish to suggest is that not everyone at the *Times* was quite so deficient in courage and moral insight as Arthur Hays Sulzberger and his city editor. At least before the Nazi wartime implementation of the Holocaust, the gray lady's black vices were occasionally relieved by patches of virtue.

J.P. HANNON
New York City

RUTH R. WISSE writes:

Before addressing these letters, I note that there were none from those who were implicated in my article. I would like to conclude from their silence that they regret having depreciated the nature and consequences of Arab anti-Semitism. If so, they have their work cut out for them. Writers like George Orwell and Arthur Koestler once turned their political blunders to great literary advantage by exposing the intellectual and psychological roots of their error. The promoters of Oslo might reach for those heights with a collection of essays called *The Peace that Failed*.

I am in general sympathy with my correspondents. Like Michael W. Schwartz, I wish that the Bush administration would make the connection between Arab opposition to Israel and the opposition to democracy and the United States with the same confidence with which the President originally defined the interrelated targets of the war on terror. America would be stronger if it spelled out the implications of the Arab strategy of attacking American democracy by proxy, and if it acknowledged how Israel became America's fighting front line by virtue of fighting for its own life. I focused on those who shape public opinion because they help to determine the will of the governed. At present, the administration, for all its hesitancy, is telling more of the truth than are many professionals dedicated to ferreting it out.

No doubt the role of the Jews in political history was formed by the Jewish idea of God (Einat Gotlieb), and has been prejudicially disfigured by Christian teachings (Rev. Walter L. Michel). But modern anti-Semitism is at least as much a function of the rise of liberal democracy, or rather of the opposition to it. Incitement against the Jews in the Arab world—which, again, forms a major front in the opposition to liberal democracy—certainly warrants strenuous resistance (Ian Schorr).

That is why I fully share Jeffrey M. Duban's disappointment in a scholar who ought to have learned from his subject, and J. Inchardi's anger at the publisher-owners of the *New York Times*. A muted apology was offered by the *Times* in a 1996 exhibition commemorating the newspaper's centennial, but, as I pointed out in my article, this acknowledgement of oversight was not accompanied by any explanation, or by any subsequent adjustment in editorial policy. When the Jews were stateless, the *Times* ignored the aggression against them, and once the Jews had a state, the *Times* blamed Israel for *inviting* the aggression against them.

I am especially grateful to J.P. Hannon for reminding us that individual *Times* correspondents proved exceptions to this policy, just as some reporters occasionally continue to do within today's culture at the paper. In addition to injuring the Jews, the refusal to acknowledge the political realities of anti-Semitism corrupts the coverage of world news, betrays the ethics of journalism, and undermines the security of the United

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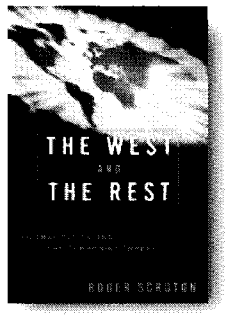

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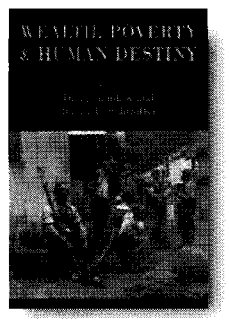

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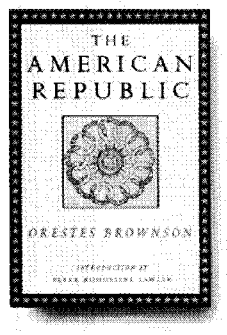

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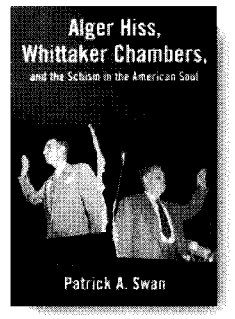

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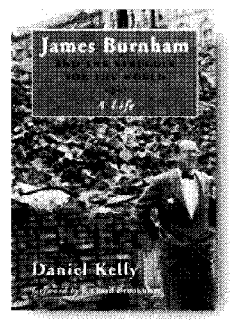

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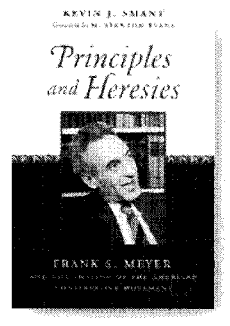

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States. By contrast, those who stubbornly report the facts, at whatever risk, deserve our gratitude and esteem.

Continents Apart

TO THE EDITOR:

Victor Davis Hanson's article is frightening, not in its well-reasoned argument that America and Europe are less than ideal partners, but in its blind and unquestioning insistence that the United States must be right ["Goodbye to Europe?," October 2002]. His dismissal of any other point of view, indeed his contempt for perspectives that are not aligned with American policy, highlights an attitude demonstrated by successive U.S. governments. Is it surprising that this grossly prejudiced and carefully constructed stance, linked with the unmatched power of America, has the rest of the world voicing concern ever more vigorously?

DAVE NICHOLAS
Auckland, New Zealand

TO THE EDITOR:

Victor Davis Hanson contributes a solid and thoughtful discussion of American-European relations, but I am mildly alarmed by the equanimity with which he treats the prospect of European military independence from the United States. If Europe's impulse toward political and economic unification largely derives, as I think it does, from opposition or hostility to the U.S., then it is fair to suppose that a prospective military consolidation would as well.

That would be an altogether ominous development. It is not difficult to imagine a future Europe, unleashed from its dependence on U.S. military might, pivoting toward an anti-American coalition with China, or even with resentful Muslim states whose emigrants have moved north and west in sufficient numbers to establish a sizeable constituency for a pro-Muslim foreign policy.

For America to encourage European integration and military independence strikes me as thoroughly unwise. We would be better served by strengthening our ties with the more friendly Europeans—the British, but also the Spanish and the Italians—and thereby resisting the EU's consolidation.

PAUL J. CELLA III
Atlanta, Georgia

TO THE EDITOR:

To refute Victor Davis Hanson's article in detail would require a piece of the same length, but a few of his fundamental points are, historically and in point of present fact, simply not true.

To begin with, far from being "radically different," the culture of the United States is essentially an extension of Western European culture onto a new continent. Even the American system of republican rule is largely derived from the political philosophies of European thinkers. As for the notion that the American frontiersman was a new kind of man, he was in fact, like his European forebears, an outrider for a civilization destined to overwhelm indigenous stone-age cultures. Even America's need to project outward its ideas of freedom is not as unique as Mr. Hanson supposes, as proved in spades by the influence of the British Empire in spreading its democratic inheritance to other parts of the world.

America's role as an active member of the community of European nations began early in the 20th century, was confirmed by World War II, and was sealed during the cold war. Like imperial Britain before it, the U.S. is now the political and economic center of gravity in that community, which is bound to it by culture as well as by what both I and Mr. Hanson call *puissance oblige*.

Of course, the U.S. is resented for its power and its ability to project that power, and above all because of the repeatedly illustrated inability of the European nations to mount any serious international action without its involvement. But the only European community of any significance remains the transatlantic one. The shallow "fault-lines" and "differences" cited by Mr. Hanson—where they exist at all—are unlikely to change that any time soon.

HERB GREER
Salisbury, England

TO THE EDITOR:

Victor Davis Hanson's excellent article moves beyond the useful explanations offered by Robert Kagan and Francis Fukuyama, who, he notes, see America's military might and foreign-policy boldness as the chief source of anti-American resentment in Europe. Mr. Hanson supplements and deepens these accounts by suggesting that it is our "radically different cultures and histories" that have made Americans and Europeans into very different, and now somewhat antagonistic, peoples.

In keeping with his other post-9/11 analyses, however, Mr. Hanson gives short shrift to the quality that most fundamentally sets America apart: religion. His only passing reference is the observation that, lacking a "common religion," Americans were compelled to "treasure a necessary allegiance to common ideals and values."

Though it is true that the U.S. has never had an established church, for the vast majority of the nation's history we did have a common religion—Christianity. Where does Mr. Hanson think the "common ideals and values" that Americans have so enthusiastically rallied around originated? The Renaissance? The Enlightenment? No, the mind of America was formed by its common religion, and it is more crucial than ever before to acknowledge this indispensable facet of our existence.

CRAIG S. MAXWELL
La Mesa, California

VICTOR DAVIS HANSON writes:

It is hard to respond to the critique of Dave Nicholas. After insisting that my essay on Europe is "frightening," "blind," and "insistent," that it shows "contempt for [other] perspectives," and that it exhibits a "grossly prejudiced" stance, he cites not a single concrete example of what I wrote that might lead anyone to agree with such hyperbole.

I can, however, take issue with two of Mr. Nicholas's own general assertions. He states that my alleged "contempt for perspectives that are not aligned with American policy" is similar to attitudes demonstrated "by succes-

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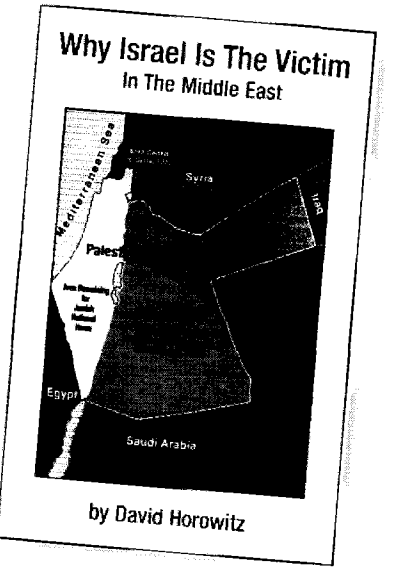
THE MIDDLE EAST STRUGGLE IS NOT ABOUT RIGHT AGAINST RIGHT...

It is about a fifty-year effort by the Arabs to destroy the Jewish state, and the refusal of the Arab states in general and the Palestinian Arabs in particular to accept Israel's existence. If the Arabs were willing to live peacefully as Israel's neighbors, there would be no occupied territories and there would be a Palestinian state.



The Arabs claim that Jewish settlements in the West Bank are the obstacle to peace. But there are Arab settlements in Israel. There are actually one million Arabs living in Israel who have more civil rights than the Arabs living in any other Middle Eastern state. So why should Jewish settlements be a problem for the Arabs? The reason is that the Arabs will not tolerate a Jewish presence in their states or anywhere in the Middle East. This is the source of the Middle East problem—Islam's war against the infidels; the Arab's hatred of Jews. The Middle East conflict is not about Israel's occupation of the territories; it is about the refusal of the Arabs to make peace with Israel, which is an expression of their desire to destroy the Jewish state.

The goal of Palestinian liberation, inscribed in its original charter, was the "liquidation of the Zionist presence." In the words of its leaders, it was to "push the Jews into the sea." That was the meaning of liberation then; it is the meaning of suicide bombing now. The root cause of the Middle East conflict is Arab and Islamic Jew-hatred. It is the Nazi virus revived.

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sive U.S. governments." Yet the Clinton administration, for example, was very careful to consult European allies and work with them multilaterally under the auspices of the UN. Indeed, Clinton went abroad to apologize for the sins of the United States, from Southern chattel slavery to American support for rightists in Greece. Madeleine Albright organized the intervention in Bosnia and Kosovo on Continental requests to stop massacres that Europeans either would not or could not halt. More recently, former members of the Clinton cabinet have not been shy in expressing doubts about the efficacy of our policy in the war against terror, our actions in Afghanistan, and the possible war with Iraq—primarily out of fear of European perceptions of American unilateralism. In the wake of September 11, Clinton himself has continued to express American regret publicly for everything from General Sherman to the Crusades.

Yet this mix of multilateralism, consultation, and public contrition did—and does—little to stem European resentment. How could it, when the pique is not empirically based but is instead largely a manifestation of deep fears, anxieties, envy, and, yes, real historical difference?

As for "the rest of the world voicing concerns ever more vigorously," that is precisely what worries a great many Americans—but not for the reasons that Mr. Nicholas thinks. Americans are growing weary of Pavlovian anti-American posturing that is so at odds with reality: Mexico voices concern, but sends its dispossessed in the millions northward illegally across our borders; Europe voices concern, but counts on military protection that it will not afford to its own citizens; France (which tolerates a vicious anti-Semitism) and Russia (which flattened the Muslim city of Grozny) voice concern—up to the point where their own past trade concessions and ledgers with Iraq have been guaranteed; the Muslim world voices concern, but over the past two decades has suffered itself to be saved by Americans in Afghanistan, Kuwait, Saudi Arabia, Bosnia, and Kosovo, and now accepts billions in aid in Egypt, Jordan, and the Palestinian Authority. And so on. In this regard, Mr. Nicholas should take a deep breath and ponder what force is the ultimate guarantor of New Zealand's autonomy in a rough Pacific neighborhood that includes an ascendant Communist China, a lunatic and now nuclear North Korea, and Islamic terrorists in Malaysia and Indonesia.

I share Paul J. Cella's worry about a rearmed Europe, but do not feel that it is in the United States' ability or prerogative after a half-century to prevent particular states, if they so wish, from seeking military power commensurate with their population, economic strength, and cultural influence—or that a more muscular stance is always deleterious to American interests. If, after 50 years, Europe has not learned to refrain from destroying itself or turning on us, I am afraid we can do little by stationing vast American military assets there in perpetuity—besides further fueling a European sense of inferiority *cum* resentment. A better policy is to remain engaged diplomatically, emphasize our common interests, seek strong bilateral ties as Mr. Cella suggests, and then, in contrast to the prevailing naiveté of either 1914 or 1939, maintain strong American military preparedness, both for our own protection and for support of those individual—especially Eastern—European states that feel comfortable with American friendship.

Herb Greer alleges that some of my points are "simply not true." Let us examine each of them. Of course American culture shares the broad European tradition. As someone who teaches classics and Western civilization to minority students in central California, I do not need to be reminded of our collective Western heritage. But, *pace* Mr. Greer, the American version of that tradition is nevertheless radically different in its approach to questions of class, economic opportunity, individualism, and government—as two centuries of widely diverse European and American observers from J. Hector St. John Crèvecoeur and Alexis de Tocqueville to Thomas Wolfe and James Baldwin have written. Generations of European dissidents, refugees, and the underclass agreed that the fault-lines between Europe and America were not "shallow"; otherwise, why would they have flocked here in their millions?

Comparing the American experience of the Western frontier during the 18th and 19th centuries to primordial European dominance over "indigenous stone-age cultures" is beyond me—but I will note that there is a world of difference, both chronologically and spiritually, between Caesar's conquest of Gaul and the Oregon Trail.

Mr. Greer may believe the purpose of the British Empire was to spread freedom and democracy to other parts of the globe; that is an issue of debate. Yet America was never a colonial power in the British sense. Instead it was founded as a free society in revolt *against* the tyranny of British monarchy—a form of government that has had a long history in every Western country except America. By the same token, there is a reason why the two great 20th-century curses of mankind—fascism and Communism—while created by and popular with Europeans of the past, have never caught on here.

For its first century-and-a-half, the United States, rightly or wrongly, had *no* formal involvement with continental European affairs. It intervened late and with great reluctance in World War I, quickly resumed its isolationist practices until the outbreak of World War II, and, in exasperation, stayed on only to rebuild Europe, to ensure that Germany would not start a third war, and to keep Soviet divisions from overrunning the continent. Apparently, after five decades, those tasks have been accomplished, and it is not unreasonable for Americans to reassess their military responsibilities toward a self-proclaimed unified Continent that enjoys an aggregate population and economy larger than our own and faces no immediate enemy.

Finally, calling for a reassessment with NATO is hardly isolationism. Nor is

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the maintenance of America's vibrant world role apart from formal treaty alliances with some European states antithetical to entering into bilateral partnerships with Britain and/or Eastern European countries that find commonalities with our goals and interests. That is precisely what most frustrates some Europeans.

Craig S. Maxwell is correct to stress the key role of the Christian religion in American life and its powerful and positive influence upon the classical tradition of Western liberal thought. His observations reflect statistics: Americans continue to participate actively in organized religious life and to express their traditional piety at levels increasingly not found in Europe. That having been said, though, the founders were also on to something about religious tolerance and the protection of diversity. If our own avoidance of anything like Europe's recent sectarian troubles in Northern Ireland, the Balkans, and southern France is any indication, they were quite right.

Stealing Words

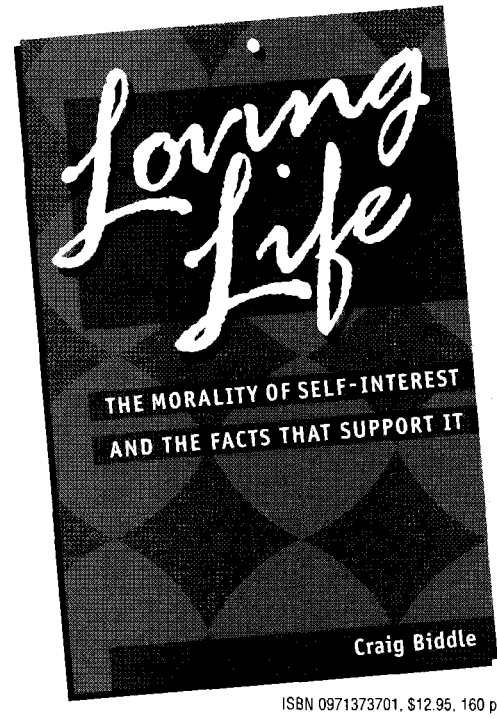
TO THE EDITOR:

I dispute Thomas L. Jeffers's characterization of Hannah Crafts's novel, *The Bondwoman's Narrative*, as an instance of plagiarism ["Plagiarism High and Low," October 2002]. First, Crafts's status as a fugitive slave, as "property," complicates and perhaps mitigates her violation of intellectual-property rights when she appropriated passages from Charles Dickens's *Bleak House*. Second, her borrowings were more of a riff on Dickens than a case of plagiarism, something apparent only to those who know his text well. Crafts's transformations of Dickens's characters and their idiom are anything but naive or clueless, as Mr. Jeffers suggests. She understood the nuances of his novel better than most Ivy League graduate students do.

Crafts most likely did not sit at a table with *Bleak House* "open beside her," as Mr. Jeffers claims, but read it piecemeal, serialized in *Frederick Douglass's Paper* in 1852-53. During the many months it ran, the paper's readers wrote in regularly with their own responses to the novel—comments, criticisms, parodies, allusions, and riffs on the characters—and Crafts's borrowings must be seen in this context.

I also object to Mr. Jeffers's implication that Henry Louis Gates, Jr. has something to apologize for. Gates has been nothing but enthusiastic about all the information scholars have uncovered about Crafts and her novel. The first thing he did after I spoke to him about the borrowings from *Bleak House* was to get my findings into the book and onto the Internet (www.bondwomansnarrative.com). The paperback edition of *The Bondwoman's Narrative*, Mr. Jeffers should be pleased to know, will include extensive notes detailing all of Crafts's allusions and borrowings. Gates has been extraordinarily generous and welcoming to anybody who has had anything—good or bad—to say about Crafts, and has encouraged scholarly debate on her work.

HOLLIS ROBBINS
Princeton University
Princeton, New Jersey



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TO THE EDITOR:

Allegations that the late Stephen Ambrose committed plagiarism are fraudulent and have been conclusively refuted by other professional historians (see, in particular, the August 2002 issue of the *Organization of American Historians Newsletter*, online at www.oah.org /pubs/nl/). Yet Thomas L. Jeffers, a specialist in Victorian fiction, repeats these allegations without looking at the evidence. He notices that 30 words in a recent Ambrose book resemble 30 words in a 1995 book by Thomas Childers. What Mr. Jeffers does *not* notice is that none of these words was originally Childers's, and that both historians relied on the same original source. The same has been true of every single instance in which journalists accused Ambrose of plagiarism.

Ambrose used sources correctly and always cited them properly, exactly as he was supposed to do. Plagiarism is about deception. Stephen Ambrose never deceived anyone, which is why the attack on him has gained no support from historians.

RICHARD JENSEN
University of Illinois
Chicago, Illinois

THOMAS L. JEFFERS writes:

I agree with Richard Jensen that journalists have tended to echo other journalists when it comes to pushing charges of plagiarism against authors like Stephen Ambrose, Doris Kearns Goodwin, or Hannah Crafts, who were the points of departure for my meditations in the October COMMENTARY on plagiarism, imitation, appropriation, and originality. When the dust kicked up by journalists finally settles, it is up to historians and literary critics to determine the justness of attribution and acknowledgment of sources in nonfiction texts like Ambrose's *The Wild Blue* or Goodwin's *The Fitzgeralds and the Kennedys*, or of acknowledgment and transfiguration in fictive, imaginative texts such as *The Bondwoman's Narrative*. The websites referred to by Mr. Jensen and Hollis Robbins indicate that serious, beyond-journalism consideration is under way—though I should add that one has to pay to gain access to bondwomansnarrative.com, and that in the case of Stephen Ambrose one should read both oah.org /pubs/nl/2002 aug/jensen.html and oah.org/pubs/nl/2002aug/lewis.html, which is a smart reply by the *Forbes.com* journalist Mark Lewis.

Acknowledgment by one imaginative writer of his or her debt to another is oftentimes a question not of express I.O.U. but of knowing allusion—as when T. S. Eliot, at the opening of *The Waste Land*, makes us think of the opening of Chaucer's *Canterbury Tales*, or when F. Scott Fitzgerald, in *The Great Gatsby*, recasts a bit of dead-end dialogue from Eliot's poem, published just three years before. The differences between such appropriations and simple parroting (plagiarism in the usual sense of stealing another's exact words, especially at length) include the appropriator's conscious affirmation of connection with a literary tradition and a desire to transform the borrowed into something new. Crafts's borrowing from Dickens's *Bleak House* still seems to me that of a promising neophyte, caught somewhere between mere echoing and proper-at-an-early-stage imitation.

I do say in my essay that, had he known her case, Dickens would most likely have approached her not as a plaintiff but as a mentor, sharing anecdotes about his own literary apprenticeship. Think of his David Copperfield as a boy at school regaling Steerforth with tales from Defoe, Smollett, and Fielding: a writer begins as a parrot, moves on to become an imitator, and then advances to transformative appropriation and occasionally, the falcon subsuming the magpie, to originality.

As for Professor Gates, I grant that he has generously accepted the help of scholars like Hollis Robbins, and I look forward to the paperback *Bondwoman's Narrative*.

Civic Religion

TO THE EDITOR:

Adam Wolfson does not consider the possibility that both recent court decisions on the relationship of the state to religion are correct ["One Nation Under God?," October 2002]. Both of them, after all, blocked efforts to allow the government to take a position on religious matters.

In the Pledge of Allegiance case, it was not a question of "shielding [the plaintiff] from any public expression of faith," as Mr. Wolfson puts it. The issue was state sponsorship—and hence endorsement—of religion. The pledge is led by state employees at governmental institutions that children are compelled to attend. The Ninth Circuit was right to rule against this practice, as other courts have been right to ban state-sponsored prayers in public schools.

The voucher case is similarly straightforward. If state funds can be used at private secular schools, why not also at private religious schools, provided these schools meet certain requirements? By allowing the use of vouchers at a broad range of private schools, the Supreme Court stopped the government from relegating religious schools to an inferior status.

KEVIN JON WILLIAMS
Wynnewood, Pennsylvania

TO THE EDITOR:

Adam Wolfson's otherwise excellent article misses the import of *Everson* v. *Board of Education of Ewing Township*, the 1947 case that challenged the constitutionality of a New Jersey statute allowing localities to cover the cost of bus transportation for children attending parochial schools. The U.S. Supreme Court upheld the law, holding that the benefit went to the children and not to the parochial school. The Court used the same rationale last summer in *Zelman* v. *Simmons-Harris* to justify the payment of school vouchers for children wishing to attend parochial schools.

Mr. Wolfson is correct to note that Jefferson's "wall of separation" first appeared at the Court in Justice Black's majority opinion in *Everson*. But it was nothing more than *dictum*, the boilerplate that often precedes judicial holdings. Contrary to Mr. Wolfson, *Everson* can hardly be said to have "won the day" for the "separationist doctrine."

VICTOR W. STEIN
Caldwell, New Jersey

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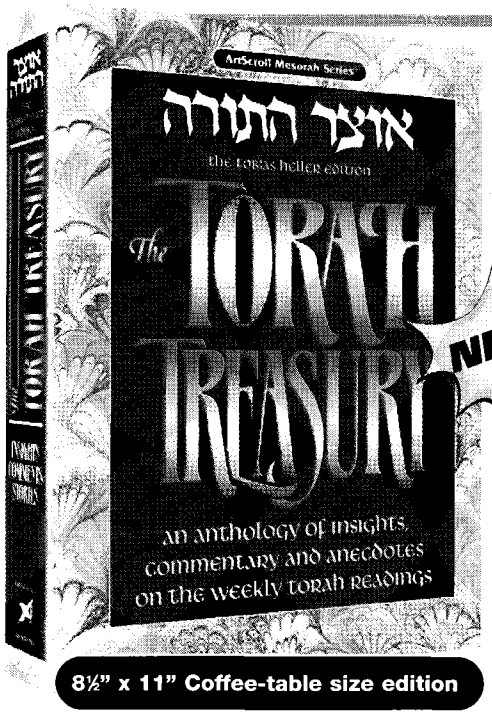
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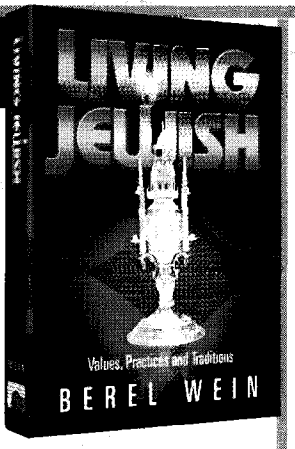

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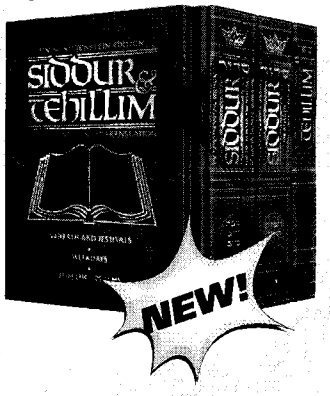

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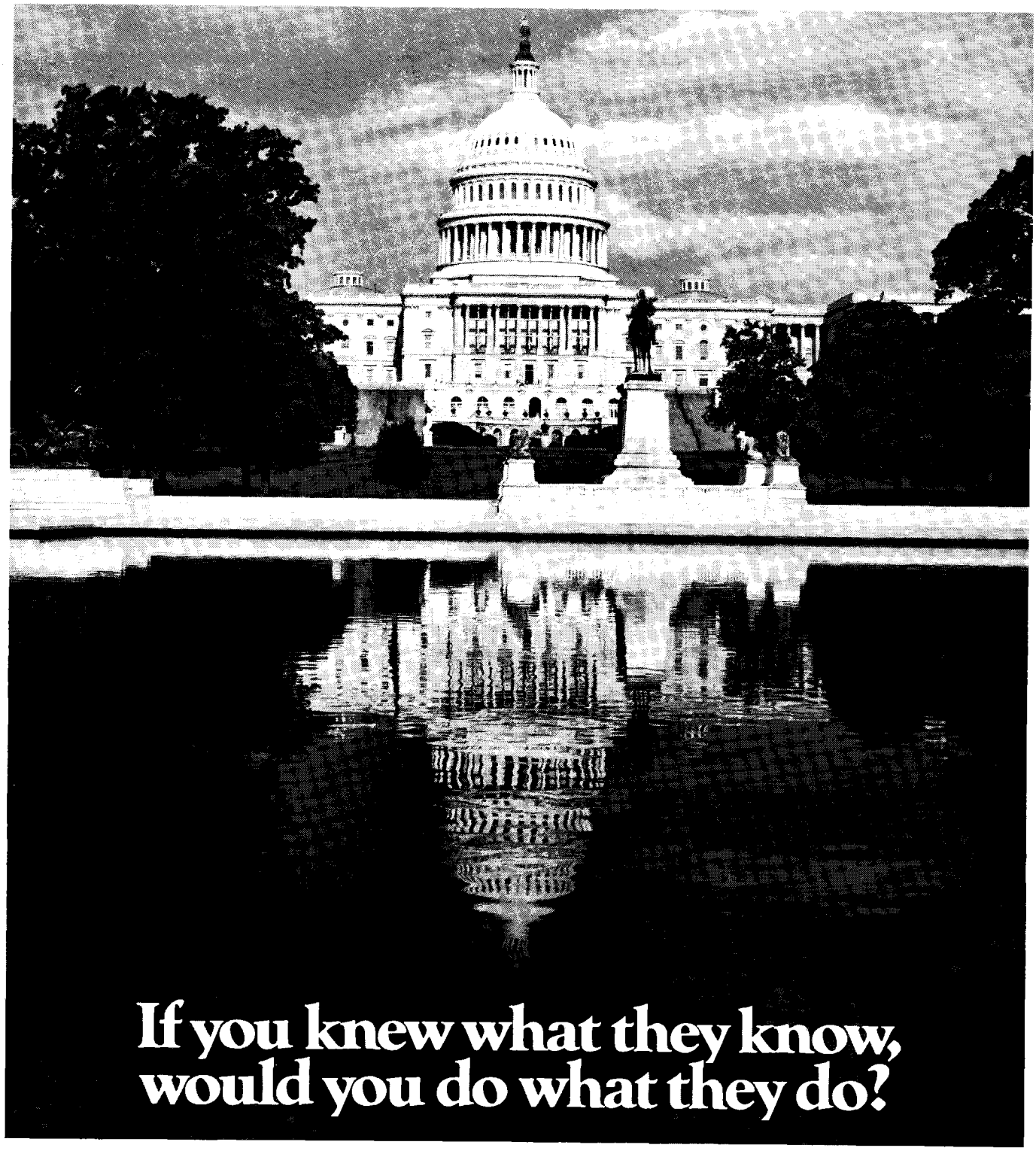

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Commentary
January 2003

An Emerging Republican Majority?

Daniel Casse

By the time Al Gore conceded the presidency to George W. Bush in December 2000, there was widespread agreement that the razor-close election they had just fought, and the fractious litigation that followed it, had exposed a disturbingly deep fissure in our national politics. In newspapers and magazines and on television, brightly colored maps showed a country divided almost exactly in half into red (Republican) and blue (Democratic) voting patterns. "There are now two distinct Americas," proclaimed *Business Week* in a typical cover story, "split along geographic, social, religious, and racial lines." So disparate were the tastes and attitudes of the people inhabiting those two different Americas, the story continued, as to "demand entirely different things from government."

Not only was the country said to be fractured, it was also said to be, on that account, ungovernable—and certainly ungovernable by George W. Bush. Wherever the new President turned, averred the political scientist Walter Dean Burnham, he was bound to find himself crippled by severely "limited opportunities" to forge a consensus behind his policies.

It was in this very circumstance, indeed, that some in the still-smarting Democratic party saw a sign of hope. Although the Democrats had lost not only the presidency but, as it then seemed, both houses of Congress, opportunity lurked in Bush's irreparable weaknesses. The new President, after all, was woefully inexperienced, especially in foreign affairs. The Republican coalition that had supported him—an unlikely mix of business groups, social conservatives, and libertarians—remained as fragile as ever. Only through the tie-breaking vote of the Vice President could the GOP expect to hold its majority in the Senate. And, as if these difficulties were not enough, the new administration was facing the first serious downturn in the national economy after eight years of remarkable prosperity presided over by a Democratic executive.

As the 2000 results were further digested, Democratic strategists took particular comfort in their reading of the red-blue map. The blue metropolitan clusters that had gone for Al Gore were composed disproportionately of educated professionals, women, and minorities—groups that were projected to grow more quickly than the rural and suburban voters who had pulled the lever for Bush. These demographic trends, along with the swooning stock market and other economic woes, suggested that Democrats might be well positioned to mount a fresh challenge to the GOP as early as the mid-term election of 2002. The party's prospects brightened further when, in June 2001, Senator James Jeffords announced that he was bolting the

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GOP and would henceforth vote as an independent—thus giving Democrats a majority in the Senate. In July, for the first time since Bush's inauguration, a Zogby poll showed a majority of Americans disapproving of his performance. Around Washington, "Re-Elect Gore" bumper stickers began to appear.

But then came September 11, followed by the war in Afghanistan and the budding confrontation with Saddam Hussein—events whose political importance served to boost George W. Bush's popularity to once-unimaginable levels and make the Gore defeat fade into memory. Last year's mid-term campaign, on which the Democrats had pinned so much hope, became instead a months-long exercise in frustration; by November 5, the actual results left in tatters the party's dream of a public backlash against an "accidental" President and of its own quick reemergence in American politics. In fact, its fortunes today are lower than they were in November 2000. Two years after the country seemed split down the middle, it is George W. Bush's Republicans who look to be on the verge of creating a new and wholly unexpected political majority.

TO GET a sense of the magnitude of the Democratic defeat, it helps to bear in mind that only twice since 1862 has the party not holding the White House failed to gain seats in the House of Representatives in a mid-term election, and seldom has it failed to gain in the Senate. As November 5 approached, however, candid Democratic leaders were already admitting they had little hope of winning the House (though none foresaw the loss of fully seven Democratic seats). As for the Senate, eleven races were still deemed to be toss-ups through the final weekend before the balloting. Stunningly, the Republicans went on to win all but one of them. At the end of the balloting, the President enjoyed larger majorities in both houses of Congress than on the day he took office.

The morning after the voting, the line from the Democratic National Committee (DNC) was that the party's losses in Congress were offset by significant gains in gubernatorial races, including in such former Republican strongholds as Michigan, Pennsylvania, Wisconsin, Kansas, and Arizona. But this was spin. Not a single elected Republican governor lost on November 5. Most of the Democratic victories occurred in states where Republicans had held the governor's mansion for twelve years or more, making it relatively easy for Democratic candidates to call for a change. Moreover, many of the victorious Democrats had campaigned on explicitly conservative platforms, and in Tennessee, Kansas, and Arizona they had vigorously opposed tax increases. The one notable exception was Mark Fernald in New Hampshire, who advocated an increase in state taxes and lost to the Republican candidate by 21 points.

Democratic gubernatorial victories also have to be seen against even more surprising wins by the GOP. Sonny Perdue became the first Republican governor to be elected in Georgia since Reconstruction. Robert Ehrlich, a graduate of Newt Gingrich's congressional class of 1994, defeated Kathleen Kennedy Townsend in Maryland, a state widely viewed as the most Democratic in the nation. And Jeb Bush, the President's brother, resoundingly upset the prediction of DNC chairman Terry McAuliffe that he would soon be "gone," defeating his challenger by thirteen points.

There were other significant reverses at the state level as well, where Democrats lost control of seven legislatures. Republicans now control 21 state capitols nationwide, compared with only seventeen still in the hands of Democrats. (Another eleven are split.) This marks the first time since 1952 that Republicans have enjoyed such a majority. In Texas, the state House of Representatives is ruled by Republicans for the first time since 1870; in Missouri, for the first time since 1955.

FROM ONE perspective, of course, the results of the November election were not so astonishing. Ever since September 11, President Bush's approval rating had stood at historically high levels, and in most polls a majority of Americans were saying that the country was on the right track. In the new era of patriotism and national unity, the deep political chasms that separated Bush voters and Gore voters had become less meaningful.

The mid-term election reflected this changed mood in more ways than one. Although many Senate races were closely contested, and there were many tight gubernatorial races, none was a pitched ideological battle. In no contest did abortion, the death penalty, gun control, race, or class warfare play a major role. With the exception of the late Paul Wellstone, no candidate for the U.S. Senate actively argued against disarming Saddam Hussein or removing his regime from power. Even on the economy, which remains worrisome to most voters, the campaigns produced no clear party-line disagreements that might have tipped the balance one way or another in the hundreds of local races.

If the country was no longer so bitterly torn,

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however, Democratic activists failed to notice it—or so their campaign strategy would suggest. Many in the party's leadership appeared to believe that Bush's post-September 11 popularity was ephemeral, and that the lingering wounds of the "stolen" election of 2000 would be enough in themselves to excite the Democratic base. "We must never, ever forget what happened" in 2000, intoned Ralph Neas, president of People for the American Way. Donna Brazile, Gore's former campaign manager, advised activists to "go out and say, 'Remember what happened in Florida.'"

It may well have been this mistaken assumption of a generalized desire for payback that lay behind the failure of the party's elites to present a genuine challenge to Bush's Republicans. That failure, at any rate, was the burden of much post-election analysis. The Democrats, lamented Peter Beinart, the editor of the *New Republic*, had "fought this election from the meek and cynical center." Two former Clinton advisers, Tom Freedman and Bill Knapp, sounded a similar note in the *New York Times*, complaining that the Democrats had "ended up arguing over seemingly esoteric differences [and] let bigger national trends, like the war on terrorism, dominate."

But what all such Monday-morning criticisms ignore is that, from the very start of the election year, Democrats in Congress had in fact tried to seize upon every possible issue by which to create a clear distinction between their own priorities and those of the White House. In every instance, however, they found themselves outmaneuvered by a President who seemed determined not to let them get the upper hand on any contentious matter.

Thus, early in 2002, Democrats proposed a reconsideration of the Bush tax cut, only to be waylaid by a White House gleefully reminding reporters of the many Democrats who had initially supported the cut. When, soon thereafter, congressional Democrats joined Senator John McCain's call to rid election campaigns of soft money, they found the President suddenly willing to sign a campaign-finance bill even if it was patently defective and constitutionally suspect. Democrats hoping to tie a cascade of corporate scandals to Republicans and their business donors came up against a White House that welcomed bipartisan legislation to contain corporate fraud. On government-financed prescription-drug benefits—a winning Democratic issue according to every poll—the GOP produced a plan that to the casual eye was indistinguishable from the Democrats'. And so it went.

In short, the Democratic problem in 2002 was not just the failure to win a fight but the inability even to pick one. Politically, the war on terror was off-limits—even John Ashcroft, Bush's attorney general and the Democrats' nemesis, was given a relatively free hand to implement his controversial measures for detaining and investigating suspected terrorists. And in the meantime, again and again, domestic issues that had once seemed the exclusive preserve of the Democratic party were being quietly co-opted by a President riding a crest of popularity and a White House enjoying a unique moment of immunity to complaints from the Right that it was pandering to liberals or selling out its own political base.

So what has happened to the red and blue map, with its supposedly hard-line divisions between Democratic and Republican voters? Few analysts of American politics could have been more confounded by the electoral transformation wrought by Bush than John Judis and Ruy Teixeira. Ever since the 2000 election, these two authors had been arguing tirelessly that the demographic facts signified by that famous map augured well for the Democratic party. In a book bearing the now-embarrassing title *The Emerging Democratic Majority*—a play on Kevin Phillips's prescient book of 1969, *The Emerging Republican Majority*—Judis and Teixeira drew a profile of the new, winning coalition. Its members are the educated professionals, working women, minorities, and middle-class Americans who live in large metropolitan areas—"ideopolises," in the authors' coinage—and are affiliated with the technology sector, universities, social-service organizations, and government.

Today it still seems indisputable that these urban clusters will be increasingly important in national elections—and also that, as Judis and Teixeira demonstrate, they are growing faster than the older suburbs and rural areas in the South and West where Republicans have dominated. But the core of the Judis-Teixeira argument rests less on shared demographics than on shared ideas. What has drawn this particular group of voters together, they contend, is a new kind of politics, or rather a new combination of political attitudes, to which they give the collective name "progressive centrism."

If the name sounds somewhat oxymoronic, that is for a reason. On the one hand, the authors write, these voters

> do not subscribe to the [Republican] gospel of deregulation and privatization. They want to supplement the market's invisible hand with

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> the visible hand of government. . . . They want to strengthen social-insurance programs . . . [and they] reflect the outlook of the social movements that first arose during the 60's. . . . They oppose government interference in people's private lives . . . [and] support targeted programs to help minorities that trail the rest of the population in education and income.

But, on the other hand, this is not your father's brand of progressivism. Although these voters may indeed "favor government intervention," they do not, "except in very special circumstances," favor

> the government's supplanting and replacing the operation of the market. . . . They want incremental, careful reforms that will substantially increase health-care coverage. . . . They want aid to minorities, but they oppose the large-scale imposition of quotas or the enactment of racial reparations.

And so forth. Judis and Teixeira are quite deliberate in defining what is to their mind this winning combination of fiery Democratic populism with the tempered incrementalism of "New Democrat" politics à la Bill Clinton. This "new synthesis," they believe, accurately reflects the transformation of America into a post-industrial society characterized by large, diverse metropolitan centers; it speaks to the interests and preferences not only of the blue (Democratic) states but of most denizens of "ideopolises" who are hungering for a new political brew. And it is the natural property of the Democratic party, its two components having been clearly if separately at work in, respectively, Clinton's 1992 centrist appeal and Gore's populist defiance of corporate power in 2000. The successful amalgam of these two strategies is what, in their view, will help usher in the new era of Democratic dominance.

After the divisive election of 2000, it was surely not unreasonable to suggest that a new brand of politics would emerge. But Judis and Teixeira's analysis, shaped by hopes as much as by facts, was out of date even as they were writing it, and is at odds with the current disposition of both political parties.

CONCERNING THE Republicans, Judis and Teixeira are stuck in the year 1994, the year of Newt Gingrich's Contract with America. Their straw man is a GOP supposedly rife with racial hatred, disdainful of single mothers and homosexuals, hostile to all government programs, and eager to infiltrate religious orthodoxy into every nook and cranny of American life. This overheated caricature prevents them from recognizing a lesson that in retrospect can be seen emerging out of their own reading of the 2000 election data. Two years later, not only had major parts of the agenda of "progressive centrism" been seized by a Republican President, but the party he led was no longer, if it ever had been, the party of their imagining.

Judis and Teixeira are hardly the only observers who thought the Republicans were heading for the precipice in the mid-1990's. As Christopher Caldwell wrote in the *Atlantic Monthly* in 1998, the party had allowed itself to be captured by a Southern voting bloc that socially and culturally was far to the Right of the rest of the country, and as a result it had lost the confidence of the electorate. But if voters once told pollsters that they trusted Democrats more on everything from education to the economy to crime and taxes, that is surely not the case today.

In a Gallup survey conducted a few days after November's mid-term elections, respondents consistently held a much more positive image of Republicans than of Democrats, and regarded them as better equipped to lead the country by a margin of 57 to 47 percent. To be sure, those findings reflected the afterglow of a Republican electoral triumph, and would undergo revision in later surveys. But the fact remains that, thanks largely to Bush, Republicans have become more palatable to a majority of Americans, and they have done so by moving away from some of the defining themes of late-20th-century Republicanism.

I have already mentioned a number of signposts from last year, but the shift really goes back to the fall of 2001. It was then, in the weeks immediately following the attacks of September 11, that Bush sent a signal of things to come by adroitly acquiescing in Democratic demands to federalize airport security workers. The shift could be seen again last spring when he announced the imposition of tariffs on imported steel, a stunning retreat from the free-trade principles he himself had advocated during his campaign for the presidency. Since then, he has signed a massive expansion of farm subsidies, reversing a market-driven policy instituted just a few years earlier; agreed to a corporate-accounting law that includes a high level of new regulation and a considerable expansion of federal intrusiveness; and created a $37-billion Department of Homeland Security that may augment and consolidate federal power to a breathtaking degree.

One can defend each of these initiatives on its merits, or at least try to explain why it has been politically necessary. But that is beside the point.

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Nowhere in this list can one find the themes—limited government, reduced spending, local empowerment—that preoccupied Republican leaders only a few election cycles ago.

As those themes have faded, so, too, have the cultural hot buttons that gave the GOP such strength among social and religious conservatives. As the columnist John Podhoretz has pointed out, it was only three years ago that prominent conservative spokesmen, notably including Lynne Cheney, appeared before Congress to condemn the violence purveyed in rap lyrics by stars like Eminem. But when Eminem's semi-autobiographical movie *8 Mile* opened to large crowds recently, not a syllable of conservative criticism was to be heard. Of course, rap singers in general and Eminem in particular have somewhat moderated the raw brutality of their message in recent months; but it is also true that, in the age of terrorism, the battle against the liberal culture has faded as a key component of Republican politics.

If once high-profile conservative causes are losing their punch, the same can be said of certain high-profile conservative spokesmen. Jerry Falwell may have permanently lost his place in acceptable conservative circles when, on the heels of the September 11 attacks, he appeared to place the blame on America's "tolerant" culture. More recently, the Bush White House has distanced itself from both Falwell and his fellow Christian broadcaster Pat Robertson for antagonistic remarks about the Muslim religion.

Nor are conservative Christian activists the only ones out of favor with the White House. In the lead-up to the mid-term elections, it was widely reported that Karl Rove, the President's top political strategist, was discouraging openly ideological candidacies. In California's GOP primaries, Richard Riordan, the former mayor of Los Angeles, known as a moderate, was said to be favored by the White House over the conservative activist Bill Simon. In Minnesota, the majority leader of the state House of Representatives was reportedly dissuaded by Vice President Richard Cheney from challenging Democrat-turned-Republican Norm Coleman in the primary. Both stories, if true, reflect an effort to shape the public face of GOP challengers, and in retrospect the political judgment involved is hard to fault: Coleman's victory in Minnesota relied in part on his ability to attract Democratic voters, while Bill Simon, who won the Republican primary in California, went on to be trounced by the incumbent Gray Davis in a race that many thought Riordan would have won.

This is hardly to say that George W. Bush is out to create a Republican party in the mold of a James Jeffords or even a John McCain. After all, he pressed for and signed the largest tax-cut package in more than a decade and is now seeking to make those cuts permanent. He has consistently selected bona-fide conservatives as his nominees to the federal bench. He fought, successfully, to keep the new Homeland Security Department exempt from federal-employee union rules. He is a strong opponent of human cloning, and has severely restricted the use of stem cells in federal medical research. His administration has proposed privatizing thousands of government jobs. In his personal style, and in his religious faith, he appears genuinely conservative. And this is not even to mention his vigorous stance in foreign policy, clearly reminiscent of Ronald Reagan and clearly distinct from the typical Democrat of today.

But there is also no mistaking the fact that Bush is prepared to offer voters something different from Reaganism and Gingrichism, something that goes beyond even the "compassionate conservatism" he introduced in his campaign for the presidency. What he and his advisers—and his party—appear to have grasped is that mustering the kind of bipartisan support required by a wartime Republican President depends on the ability to stand in or near the Center, and so turn to advantage the same demographic and cultural trends that, a mere two years ago, seemed so threatening to the GOP's future. The question is whether the palpable successes of Bush and the new GOP as measured in the mid-term elections are an artifact of the moment, or whether they can be molded into something more permanent, and more meaningful.

That will depend in large measure on the Democrats, and on how they play the hand they have now been dealt. So far—and here again is where Judis and Teixeira go wrong—there are abundant signs that they will play it not by sticking to "progressive centrism" but by moving Left. For all the alleged changes that the Democratic party underwent during the Clinton years, it now appears that its congressional wing is retreating to a familiar form of interest-group populism. Despite all the attempts to create a coalition of the Center, the party as a whole remains hostage to public-employee unions, trial lawyers, and organized lobbyists of every kind.

The choice of the unreconstructed liberal Nancy Pelosi to lead the minority caucus in the House, together with the emergence of Senator Hillary Rodham Clinton in a leadership role in the Senate, is a

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clear indication of the Left's determination to claim for its own the shreds of the party's fortunes. Similarly not to be ignored is Al Gore, still the most recognizable presidential aspirant in the Democratic field. In the last year, Gore has almost entirely abandoned the "New Democrat" creed by which he was once defined and moved sharply to the Left, criticizing the administration's response to al Qaeda, its handling of the economy, and its alleged neglect of the changing American family.

If this pattern continues, one can safely predict that on the road to the next presidential campaign, even as Republicans continue to downplay their "wedge" issues, Democrats will be more and more likely to emphasize theirs—especially in such areas as environmental protection and guaranteed health insurance, already emerging as favored themes. So far, faced with challenges on these or similar issues—the Patient's Bill of Rights, protection of the domestic steel industry—Bush Republicans have tended to respond with their now-standard "me, too." But a more left-wing, populist Democratic party may render this strategy unworkable by robbing Bush of any chance of compromise.

That will be a testing moment for the GOP—and, conceivably, an opportunity to define itself for the foreseeable future. If it is to hold on to its edge, the party may be driven to articulate a more consistent and more truly conservative approach to issues of policy, if not to evolve a true conservative philosophy of governance. This does not mean veering sharply Right in a move mirroring the Democrats' turn to the Left. It does mean, in the broadest terms, developing a constantly reiterated commitment to the virtues of limited government over expanded entitlements, to market incentives over command-and-control regulation, to competition in place of entrenched bureaucratic monopolies, to economic growth over austerity, to conservation over radical environmentalism.

Such an exercise has much to recommend it, and not just in order to reassure doubting conservatives that Republican politics is about more than winning elections from Democrats. There is, in fact, a real danger in the strategy being pursued by the White House. In the hands of a less gifted, or less convincing, politician than Bush, and in circumstances other than wartime, it may represent less a blueprint for future political dominance than a reversion to an older and thoroughly failed Republican role. I am thinking, of course, of the long decades after the New Deal when the GOP was defined primarily by its efforts to slow the inexorable march of liberal ideas—not by substituting better ones but by accommodating them and sanding down their sharper edges. This is essentially a defensive form of politics, and it is a losing proposition. By contrast, making the case for limited government in a consistent and serious and positive manner could actually increase the appeal of the GOP in the eyes of many centrist and/or traditional Democratic voters who have been drawn to it in the months since September 11.

OVER THE last three decades, the GOP has gone through a number of minor revolutions in an effort to reinvent itself. Kevin Phillips chronicled the start of the process in *The Emerging Republican Majority*, where he forecast a GOP majority based in the new entrepreneurial communities of the South and West rather than in the old WASP business elites. Ronald Reagan transformed the political face of the party, combining supply-side economics and anti-big-government themes at home with internationalism abroad. Fifteen years later, Gingrich shook up the party once again, demanding the reform of Congress and a shifting of power from Washington to state governments.

Today, Bush's mix of aggressive foreign policy, expanded government in the interest of domestic security, and a willingness to find a middle ground on domestic issues long owned by the Democrats has given him strengths that have defied almost every prediction of how his presidency would evolve. To be sure, he is a beneficiary of extraordinary circumstances. Nor do we yet know whether the brand of politics he has practiced is ultimately driven by expediency or by principle. But it is certain to set the terms of political debate for the balance of his first term, inform his reelection bid two years hence, and just possibly determine whether his party will emerge unexpectedly as a new political majority.

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Israel's Last Line of Defense

Fiamma Nirenstein

ALMOST EVERY other day in Israel, it seems, an ordinary waiter, store guard, or bus driver, a twenty-year-old soldier on leave or a fifty-year-old businessman, will seize a terrorist by the arms and, while his explosive belt is still ticking, push him away from the scene, simultaneously shielding bystanders with his own body. He may save dozens of lives, and may forfeit his own in the process. He is a new kind of citizen-defender, and Israel's last line of defense. The Jewish state begets many like him, but he is also a unique type—very much a local product.

As the world knows, the Israeli army and police force have not succeeded in creating a perfectly hermetic seal against the catastrophic terrorism that has hit the country over the past two years. Barriers, checkpoints, and occasional armed forays into the occupied territories function only partially to deflect the lone suicide bomber armed with TNT and hate. Since September 2000, this latest strategic weapon of the Arabs has claimed 700 dead and thousands of wounded, in a country of only 5 million Jewish inhabitants. Everywhere, you see children in wheelchairs, disfigured victims of every age, not to mention the legions of mourners for family members and friends lost in a moment's horror.

All this has changed the face of civil society in Israel, if not the very concept of civilian life itself. For now, the most effective protection against such attacks, aside from periodic incursions into Palestinian cities, is this spontaneous form of civil defense, the only thing that works even when the terrorists from Jenin and Nablus manage to get past the barriers and show up at a café in Tel Aviv or a gas station in the West Bank town of Ariel. It seems to function naturally, on its own, but in truth it is a very strange phenomenon.

Noon. Emek Refaim, the long street that runs through Jerusalem's German Colony, where bougainvillea and jasmine hang down from the weathered three- and four-story stone buildings. By this hour the daily racket has already reached its height: bus and car horns, mothers yelling at their children not to cross in the middle of the street, the din of rock music blasting from car stereos. In among the old Arab houses and the buildings of the Knights Templar—the cemetery of that medieval Christian order abuts the local supermarket and Burger Ranch, the boughs of its trees extending over the stone walls—are dozens of cafes, upscale wine bars, boutiques, sushi joints, vegetarian and Chinese restaurants. It is impossible to find a place to park; the police who patrol the area seem to have accommodated themselves to the prevailing chaos. The cafes are full, chic girls and boys are out

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walking their dogs, pretending they are in Tel Aviv. The large glassed-in terrace of Caffit, where people sit sipping cappuccino, completely exposed to the street, is an open invitation to a terrorist.

Our hero, Shlomi Harel, twenty-three and a waiter, is dressed in a white shirt and dark pants. His eyes are puffy. He was up late the night before: being a waiter, a guitarist, a student, and popular with the ladies will do that. He wears a ring in his left ear and two studs in his right, sports a tattoo on his arm and spiky hair. How many lives has this boy saved? Around 50, but it doesn't show.

"On March 7 at 1:30 I saw a big, fat guy trying to come into the place," he begins. "The guard had already stopped him, but I immediately rushed over. He was sweating a lot. I learned Arabic in the army so I asked him, 'What's your name? What do you want? Where are you going?'—anything to try and identify him, to try to understand. He had this lost look, he was sweating like crazy, and he said, 'I don't speak Hebrew,' in Hebrew. I pushed him into the corner, with the guard's help. I wasn't thinking about anything."

Shlomi has black eyes that his Iraqi-born mother might have painted on him with a paintbrush. He is well mannered, reserved though not exactly shy, dead tired. He would not let me pay for the coffee I drank at the bar, allowing me instead to admire his method of carrying several cups and saucers in one hand. His coworkers and the bar's owners like to laugh about the great Shlomi, whom the international press has made briefly famous. "Oh, you're the real Shlomi, the one and only, the big hero," they exclaim. Everyone seems to adore him.

A civilian hero is deprived of the incidental benefits, such as they are, of armed combat: the adrenalin rush of anticipated battle, the comforting presence of commanding officers and mates. Instead, he is alone with a bomb, his hands clutching a crazy man bent only on killing and being killed. But Shlomi is very cool. From the instant he shoved the sweating and stammering stranger into a corner, he says, the rest of the event unfolded "like a machine."

"I pulled the backpack off his shoulders and it fell onto the floor. I opened the flap and saw the wires sticking out. It didn't explode because something must have been broken. I was lucky. I picked up the backpack, I was still on automatic pilot, and I took it away while someone else pinned the guy down until the police came. Why did I carry it away? I said to myself, 'If someone has to die, better one than many.' And then I thought, 'If it blows up, we'll all die and I'll really look like an idiot.' But it worked out, and so I became a hero."

When he got home his mother screamed at him, hysterically: "You idiot!" She was lying on the sofa, a glass of water in her hand. "I ran home to warn her before she heard the news on the radio, but she raised her hand to slap me, crying about how I could have been killed." Shlomi laughs, but his eyes are still a little frightened at the thought of his enraged mother.

Shlomi is something of a Zionist, as Zionists go in real life. He was not a big believer in the Oslo peace process, but he was a little believer in it. He likes the idea of peace, and terrorism scares him more than war. But what is the alternative? Slowly, the dirty cups still balanced in his hand, Shlomi offers his ex-post-facto philosophy: "It went well, that's a sign that life goes on. If the backpack had blown up, I wouldn't be here to talk about it. So," he lapses into Arabic, "*ya-Allah*, we have to live. We move around, we keep going, nonstop. People do their best, they're walking on eggs."

In Gilo, the Jerusalem neighborhood where Shlomi lives, the whole area was under nonstop bombardment a year ago. "When a shell landed in my apartment building it was really scary. There, it was hard to plan: if it hit you, it hit you. But when you can *do* something, things go a lot better." For having done something, Shlomi came into $5,000, a prize from an American philanthropist. "I'm saving it," he says.

IN THE old days in Israel, heroism of the Shlomi type was both a national reality and a national ethic. It was part and parcel of the popular ideology of the ruling (mostly left-wing) elites, forged in the crucible of the 1948 war and, even earlier, in the age of the pioneering kibbutzniks and those who made the desert bloom. Driving it was a very anti-heroic dream: namely, the dream of a normal life in one's own land, among one's own people. This brand of valor had nothing to do with the outsized, myth-soaked heroism familiar to us from the propaganda and the statuary of fascism and Communism. It was not about gargantuan deeds by superhuman champions; it was family- and home-oriented, and rather intimate in tone. It was celebrated in lots of sad and even rueful songs, but few marches.

No doubt to the astonishment of many, it is still alive, having survived even the era of rampant consumerism and the good life. There are still many yuppies in Israel, but their roots would appear to run only a few inches deep. That there are also deep political divisions concerning the country's fu-

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ture goes without saying, some of them reflected in emigration figures and even in desertions from army service; but considering the circumstances, these, too, are remarkably contained. As for the post-Zionist interpretation of Israel's history, which replaced the anti-heroic hero with a bellicose, aggressive villain—the mythically rapacious, colonialist Jew who first oppressed and then drove out the native Palestinian inhabitants of the land—this mendacious reading likewise seems to have failed to take hold in Israeli consciousness, at least to anything like the extent once feared. The classic Zionist personality has assuredly gone through more than a few permutations over the last decades, but the essential character seems to have remained largely intact. Which is perhaps not so surprising, since it is unfortunately grounded in an implacable existential reality.

And it is evidently contagious. On October 12 of this year, Mikhail Sarkisov, a thirty-one-year-old recent immigrant from Turkmenistan, saved the lives of about 40 people who were sitting in the Café Tayelet along the oceanfront in Tel Aviv. Sarkisov had been a guard for three weeks, his training having consisted mostly of a stint in the Russian army. He was living in a trailer, without a bathroom or a refrigerator, his only items of luxury being a well-groomed moustache and a gold—well, maybe gold—ring. He had been issued a fake pistol because he did not yet have a gun license. When an Arab terrorist, his jacket bulging, approached, Sarkisov confronted him even as the metal detector started to go off.

"What do you have there?" he asked. "It's mine," the terrorist responded. "I didn't ask whose it was," was Sarkisov's swift retort. "I asked what you have there." As the Palestinian put his hand in his pocket, Sarkisov and two customers threw themselves at him and wrestled him down. "I understood that he was a terrorist because he spoke Hebrew very badly," says Sarkisov in a Hebrew flavored by a strong Turkmenistan accent.

Up until this day, Sarkisov had been treated very poorly by the company that hires guards for places like Tayelet and is linked to the worst criminal elements—whom it also recruits as guards. But now Sarkisov is smiling because they have given him a place to live. Also, he received $5,000 from the same American donor, and Prime Minister Sharon has presented him with an honorary plaque. Sarkisov the hero is a man without social or personal resources: recently separated from his wife, he lives alone; as if in a Charlie Chaplin film, he found himself armed with a fake pistol, and required blindly to act his part. But somehow he was prepared without question to give his life for his countrymen.

And how if not by some theory of positive contagion are we to understand the heroism of seventeen-year-old Rami Mahmoud Mahameed? This young Arab Israeli was at the bus station in Umm el Fahm in central Israel when he saw a Palestinian carrying a large black bag on his shoulders and wearing very dirty shoes. As the two were alone in the station, Rami politely asked to borrow the stranger's cell phone. Moving away, he quietly called the police. Then, instead of fleeing, he sat down next to the terrorist and waited. "I did what I wanted to do," Rami said later, as if surprised that anyone would find his actions peculiar. The police arrived in time to halt an arriving bus before it could enter the yard and grabbed the terrorist, who blew himself up. Rami was seriously injured. "Even if I had to die, I would have stayed there," Rami said later at the hospital, where at first he was under suspicion of having been an accomplice. "I thought to myself when I saw him, 'OK, if you want to kill yourself, go do it in Jenin.'"

Of course, it helps that Israel's regular army, the IDF, is a citizen-army in the fullest sense, based on almost universal conscription and drawing much of its moral and cultural strength from a national mentality of preparedness and service that has been built up over the generations. It also helps, if in a grotesque way, that the enemy is so completely ruthless. "When I went into Jenin, I was astonished," says a reserve officer who participated in the operation in that West Bank city last April. "Under the beds, in the cabinets, in the kitchen, in the refrigerator there were explosives. The portraits of *shahids* ['martyrs'] were everywhere. It was sheer madness. Here were people who had built themselves a lovely city, who had been doing quite well financially, who had excellent rapport with their Jewish neighbors. We met a child carrying a bag of explosives. He must have been about seven years old." The terrible, sickening aggression of the enemy, the feeling of oppressiveness and rage that it induces in everyone who must face it, brings out a potent response. Besides, thanks to army training, the plain fact is that many people are *used* to reacting—when necessary, "like a machine."

A typical case is Eli Federman. If his family name is known in Israel, it is mostly on account of his brother, Noam, a former spokesman for Meir Kahane's extreme right-wing Kach movement, who

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has been arrested 45 times. "My relationship with Noam is like my relationship with Yasir Arafat. To say we don't see eye to eye is an understatement," Eli asserts. On May 25, Eli saw in the distance a car driving much too quickly toward the Tel Aviv night club where he is a guard. With his imposing physique—he did his military service in a crack battalion—he started shoving people away and firing his gun. A bullet hit the oncoming terrorist, and the wildly careering car blew up.

Federman had lived in Thailand for a long time, and had married there; that country holds a totemic place in the mentality of many young Israelis, whose post-army years often begin with a tour of the Asian hot spots. Today he lives with his family in a relatively leafy, lower-middle-class suburb. After the car blew up, he says matter-of-factly, he went over and "shot a few more bullets in [the terrorist's] head. We have to be as thorough as possible in the territories, not let them get as far as here." Benjamin ben Eliezer, then Israel's defense minister, inadvertently added a layer of complexity to the definition of the new Israeli hero when he hailed Federman as one "who deserves credit for defending the rights of people to get on with their daily routine and also have fun"—a hero who upholds a democracy's right to party.

I have not mentioned the bus drivers, who almost merit a category of their own as involuntary soldiers along Israel's civilian front line. They include Baruch Neuman, whose regular route runs from Petach Tikva to the Tel Hashomer hospital complex outside Tel Aviv. At the stop near Bar Ilan University, he saw a man trying to enter through the rear exit. This is forbidden for security reasons. He slammed the door in the passenger's face, causing him to fall back bleeding to the pavement. Terrified that he had injured someone, Neuman got off, together with a passenger who was a doctor, to inspect the damage. Opening the wounded man's jacket, they saw the explosive belt and, in a flash, pinned the man's hands. He tried to resist, and was kicking hard.

"He was big and strong, and he could have managed to activate the bomb at any moment," Neuman recalls. "We started to shout: 'It's a terrorist! Run! Run!' My only thought was, 'Hold onto those big arms.'" All the passengers except for one old lady managed to flee in time. "As the minutes went by he gained more and more movement, and we also understood that the bomb could be activated from afar, like with a cell phone. We decided to get away, and on the count of three we started to run. He blew up, but by that point there was hardly anyone around."

"A hero knows what he's doing," Neuman says in self-deprecation. "I acted out of pure instinct. I was doing my job and I was responsible for the safety of my passengers; I see them every day, you know. Are my wife and children proud of me? Yes—especially of the fact that I came home in one piece."

On February 1 of last year, another bus driver named Menashe Uriel broke up a major bomb attempt by pushing away a young man who was trying to get on his bus strapped with explosives. He rolled onto the ground with him. "The boy was sixteen years old, and he held his bag tight. I was sure I was going to die, but the bus was jam-packed with kids going to the Love Festival, and with soldiers heading north"—a postmodern mix if ever there was one—"so I did what I had to do."

NOT ALL who have done what they had to do have lived to talk about it. Yossef Twitto, the head of the response team in the West Bank community of Itamar, heard shots from a home one night last June but arrived too late to save the situation—three children dead, two wounded, all in the same family; when he burst in, the terrorist mowed him down, too. Another guard, Mordechai Tomer, nineteen, blond with a broad smile, was killed in Jerusalem when he stopped a car and asked to see identification papers; the driver blew himself up. And so it goes.

Sudden death, ever-present in the consciousness of Israelis, can lead to action, but also leads to a certain fatalism. Unlike in societies at peace, Israeli young people do not feel immortal. They live often to excess: dangerous trips, crazy nights, spur-of-the-moment impulses, exaggerated behavior punctuated by uncontrollable laughter and loud shouting. Beneath it looms the silence of death. "I knew perfectly well that he would have died to stop a terrorist. We'd discussed it many times," says the widow of Tamir Matan, forty-one, killed together with two young soldiers when the suicide bomber they were trying to stop blew himself up at a gas station.

This fatalism too is not new. In a 1947 novel by Moshe Shamir, *He Walked in the Fields*—a work much derided by later generations of intellectuals for its apotheosizing of the values of the old Zionist settlement in Palestine—the protagonist throws himself onto a bomb to save a comrade, even though his own girlfriend is pregnant with their child. Uri is a rural hero, torn between the dream of a quiet farmer's life and the ideal of service, of duty. For a man who would have preferred the countryside and love, duty wins out. He is like the boy in a famous ballad by the Zionist poet Natan

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Alterman, another self-sacrificing hero who gives his life to save his army buddies and does not even know why; or like the protagonist of another ballad about the terrible battle of Ammunition Hill in Jerusalem during the 1948-49 War of Independence, who "between the grenades and shots . . . ran and laid the explosive. I do not know why I got the medal of honor. All I wanted was to go home quietly."

Not too far from the King David Hotel, a sumptuous new hotel is being built; a suicide bomber blew himself up there, splattering blood onto the pale blue windows. A mere 100 yards away, in a pedestrian mall, dozens of kids lost their lives to two suicide bombers as they sat drinking Coca-Cola and chatting while music wafted from the restaurant doorways. Not far from the Moment Café, where eleven young people were murdered in June, and from the Sbarro pizzeria, where fifteen were blown to bits, lies the big Mahanei Yehuda market, and not far from the market is the large building that houses my gym. Everything is near everything else in a city as small as Jerusalem. After class one day, the gym instructor, soaked in sweat, her voice barely audible above the exercise music, shouted: "Good for you, girls, coming to gym even with the way things are."

Good for you? Whom was she talking to? What was she talking about? But as I looked around, at the Orthodox women, out of breath, carefully replacing their wigs or kerchiefs, at the rest of us pulling on our slacks before walking out the door to take our kids to school or shop in the supermarket or ride the city buses or sit and drink cappuccino as if mass murderers were not planning to murder us where we stood, my eyes welled with tears. Good for you. Really, well done.

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Who's Afraid of Leon Kass?

Gary Rosen

In the summer of 2001, as the Bush administration prepared to announce its much-anticipated decision on federal funding for stem-cell research, the White House began to leak word that the President was marching himself through a crash course on the complexities of the subject. A range of experts and interested parties had been called in for consultations, and George W. Bush, by all accounts, had proved to be an informed and energetic student. Though there was an obvious element of political spin in these tales, what did appear wholly believable was that the President, as one witness to his deliberations told the *Washington Post*, was "genuinely very, very conflicted" about how to balance the clear medical promise of this line of research against its disturbing reliance on cells drawn from—and thus causing the destruction of—human embryos.

Among those chiefly credited with helping Bush sort through these difficulties was Leon R. Kass, a bioethicist from the Committee on Social Thought at the University of Chicago. When Bush finally announced his controversial decision in a prime-time address to the nation—the federal government would support the research, but only on colonies of embryonic stem cells that already existed—he also used the occasion, to no one's surprise, to formalize Kass's advisory role, naming him to chair a new President's Council on Bioethics.

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Kass is, by general assent, the country's most eloquent, consistent, and credible critic of the biotechnological avant-garde. A physician and biochemist by training, he was among the founders, in 1969, of the Hastings Center, the first American think tank for bioethics, and has spent the last three decades ruminating on the social and cultural significance of the ongoing revolution in medical science, from in-vitro fertilization and organ transplantation to psychotropic drugs, genetic screening, and cloning. More impressively, and as befits a teacher in Chicago's famed redoubt of the Great Books, Kass has tried to connect his objections to particular technologies to a grander humanistic narrative, tracing the West's relentless scientific ambition back to its deepest—and, to his mind, sometimes troubling—philosophical sources.

As Kass would soon discover, however, it is one thing to hold such opinions as a professor, quite another to do so as a high-profile adviser to a Republican White House. Over the past year-and-a-half, as opponents from various points on the ideological spectrum have digested his writings and watched his stewardship of the President's Council on Bioethics, Kass has been treated rather roughly. Long regarded by his liberal academic peers as a thoughtful if misguided dissenter, he has now emerged, by the lights of his most determined critics, as a dangerous right-wing radical.

Kass's work, opined *USA Today*, places him "on the fringe of medical consensus," revealing "a man

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at war with the accepted state of medicine and research." Writing in the *New Yorker*, Jerome Groopman of Harvard Medical School described him as a thinker whose "vision is dismally remote from what actually goes on in the nation's laboratories." More charitably, suggested the bioethicist Arthur Caplan to the *New York Times*, Kass is a scholar who, for all his integrity and intelligence, is still "wrestling to try and cope with modernity."

As for the origins of his reactionary tendencies, Virginia Postrel, in a piece for the *Los Angeles Times*, placed the blame squarely on Kass's belief that, in thinking about human nature, we should "emulat[e] the ancient Greeks"; his objections to modern medical practice, she argued, are not "about the 21st century" but "about the 16th." Others have pointed to a more familiar culprit. On the op-ed page of the *New York Times*, Michael Lind declared Kass "the religious Right's favorite intellectual." His views, suggested *Washington Post* columnist Richard Cohen, are indistinguishable from those of the "emerging Republican theocracy," conservatives who "substitute faith for thought."

According to Chris Mooney of the *American Prospect*, Kass has often failed to offer rational explanations for his resistance to biomedical innovation, relying instead on "a variety of anti-intellectual techniques, ranging from scare-mongering to downright obscurantism." Not only, Mooney wrote, has Kass constantly resorted to the "demagoguery" of "sci-fi horror stories," but he has candidly based his rejection of some new technologies on what he himself calls the "wisdom of repugnance." This latter notion, Robert Wright argued in *Slate*, amounts to nothing more than Kass's "unerring internal sense of what grosses [him] out"—of what, peering into the future, he "personally" finds "really creepy."

Has Kass been found out? Can it be that, for all his scientific credentials and scholarly accomplishments, the man in whom the President has placed his confidence is not only an enemy of progress but, at bottom, an irrationalist unwilling even to weigh the claims of his opponents?

KASS'S NEW book, *Life, Liberty, and the Defense of Dignity: The Challenge for Bioethics*,* is not an explicit rejoinder to these charges. It consists of essays that, though updated and revised for publication, were written for various magazines (including COMMENTARY) well before he stepped into the public spotlight. But in several instances these are the very essays that prompted such bitter denunciations of his appointment, and Kass is plainly aware of how his work in general has been received. "I fear," he writes in his introduction, "that nothing I can say will prevent many readers of this book from regarding it as a Luddite tract and me as hostile to science and technology, or a natural pessimist, or someone simply fearful of the future." Collecting his writings at the present moment is not, then, just an opportunity to set out his views more comprehensively; it is a way of inviting his critics—or those whom his critics have swayed—to reconsider.

As in all his work, Kass begins at the beginning, with political and philosophical fundamentals. It is no accident, he argues, that the freest, most democratic societies in the history of the world are also the ones that have raced ahead most eagerly in every technological field, particularly medical science. Our science, like our politics, springs from the same basic commitment of Enlightenment thought: to preserve and protect the individual. The ideas of John Locke and the American founders, the architects of limited, constitutional government, find their necessary complement in the humane project of philosophers like Francis Bacon and René Descartes, who turned science away from scholastic speculation to the acquisition of "useful" knowledge. As Kass appreciates, the civilization defined by these ends has achieved wonders. "Thanks to liberal democracy and its fruitful contract with modern science and technology," he writes, "many ordinary human beings today live healthier, longer, freer, safer, and more prosperous lives than did most dukes and princes in premodern times."

Still, as Kass sees it, something essential was lost in this intellectual turn. The key insight of modern biological science, and the source of its prodigious power, is reductionism—that is, the examination of living things in terms of their most elemental parts and the way those parts relate to one another. Intent on technological manipulation, we ask single-mindedly, "how does it work?" Classical natural science, by contrast, wondered, with eye-opening directness, "what is it?" or "what is it for?" For Aristotle, the "first biologist of nature-in-its-ordinary course," an organism had to be considered as a whole, with a distinctive end—or telos—of its own. It is this perspective that Kass wishes to restore. "Living things must be regarded as purposive beings," he contends, "as beings that cannot even be looked at, much less properly described or fully understood, without teleological notions."

Kass acknowledges that, in the case of human beings, even attempting to specify such natural

* Encounter Books, 313 pp., $26.95.

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ends is a difficult—and hugely controversial—task. Still, he suggests, any effort to grasp our distinctiveness as living creatures must avoid the usual extremes; we are, in truth, neither mere impulse-driven animals nor pure rational agents, but an irreducible combination of qualities both "high" and "low." "What is urgently needed," Kass writes, "is a richer, more natural biology and anthropology, one that does full justice to the meaning of our peculiarly human union of soul and body." Only through a deeper awareness of our "embodied" and time-bound existence, he insists—an awareness of "need, limitation, and mortality," of our "natural desires and passions, our natural origins and attachments, our sentiments and aversions, our loves and longings"—can we arrive at a satisfactory account of what makes us human, and give a solid foundation to the "dignity" we claim for ourselves.

In Kass's view, recent advances in biotechnology—from ever-more artificial ways to produce babies, to drugs like Ritalin, Prozac, and Viagra, to machines and techniques that promise to cheat death itself—pose a dire threat to "human flourishing" on these terms. Increasingly removed from the experiences that constitute the full arc of life, and determined to control even the natural play of our own emotions and sentiments, we run the risk of "dehumanization," even of a "posthuman future." A growing number of people in Western societies share such misgivings, he believes, but hesitate to air them, so inextricably bound to their own way of life are the principles of modern science and so (properly) grateful are they for its achievements.

For Kass, our situation has all the ingredients of classical tragedy. It is a story in which, with modern science at center stage, "the failure is embedded in the hero's success, the defeats in his victories, the miseries in his glory." But the final act is not foreordained. "Everything depends," he writes, "on whether the technological disposition is allowed to proceed to its self-augmenting limits, or whether it can be restricted and brought under intellectual, spiritual, moral, and political rule."

WHAT SO brief a summary of Kass's ethical and philosophical position fails to capture is the *flavor* of his essays, which often move along with great rhetorical urgency. As he himself makes plain, his aim in writing is not just to instruct readers but to shake them from their complacency and resignation. To that end, he does not hesitate to drape across the elegant intellectual scaffolding of his thought vivid prophecies of the horrors that may lie ahead.

Among Kass's favorite sources, as one might expect, are some of the best-known literary indictments of the biotechnological future. C.S. Lewis's *The Abolition of Man* (1943), for instance, makes several appearances, particularly to raise the specter of untrammeled authority in the hands of scientific experts. As Lewis saw it,

> if any one age really attains, by eugenics and scientific education, the power to make its descendants what it pleases, all men who live after it are the patients of that power. . . . Man's conquest of Nature, if the dreams of some scientific planners are realized, means the rule of a few hundreds of men over billions upon billions of men. There neither is nor can be any simple increase of power on man's side. Each new power won *by* man is a power *over* man as well. Each advance leaves him weaker as well as stronger. In every victory, besides being the general who triumphs, he is also the prisoner who follows the triumphal car.

More central to Kass's argument, even to the point of pervasiveness, is Aldous Huxley's stunning dystopian novel, *Brave New World* (1932). Huxley's genius, he suggests, lay not only in envisaging such possibilities as the production of human beings at the "Central London Hatchery and Conditioning Center," but in recognizing that so nightmarish a society could arise, in Kass's words, from "our most humane and progressive aspirations."

> Huxley depicts human life seven centuries hence, living under the gentle hand of humanitarianism rendered fully competent by genetic manipulation, psychoactive drugs, hypnopaedia, and high-tech amusements. At long last, mankind has succeeded in eliminating disease, aggression, war, anxiety, suffering, guilt, envy, and grief. But this victory comes at the heavy price of homogenization, mediocrity, trivial pursuits, shallow attachments, debased tastes, spurious contentment, and souls without loves or longings. . . . What matters most [in the Brave New World] is bodily health and immediate gratification: "Never put off till tomorrow the fun you can have today." No one aspires to anything higher. Brave New Man is so dehumanized that he does not even realize what has been lost.

Not to be outdone, Kass himself often paints in bold strokes when describing his concerns about new technologies. Those who endorse experimenting with nascent human life are obliged, he submits, to consider how they would react "to en-

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countering an incubator or a refrigerator full of living embryos." So, too, the discussion of human cloning must be informed by the fact that "most people are repelled" by its every negative aspect, which he proceeds to enumerate:

> the possibility of mass production of human beings, with large groups of look-alikes, compromised in their individuality; the idea of father-son or mother-daughter "twins"; the bizarre prospect of a woman bearing and rearing a genetic copy of herself, her spouse, or even her deceased father or mother; the grotesquerie of conceiving a child as an exact "replacement" for another who has died; the utilitarian creation of embryonic duplicates of oneself, to be frozen away or created when needed to provide homologous tissues or organs for transplantation; the narcissism of those who would clone themselves, and the arrogance of others who think they know who deserves to be cloned.

The "repugnance" prompted by cloning, Kass argues, is "the emotional expression of deep wisdom," and should not be dismissed simply because its grounds cannot be fully articulated. "Shallow are the souls," he writes, "that have forgotten how to shudder."

KASS HIMSELF would perhaps admit that at times he overreaches with his rhetoric. As he explains in his introduction, "If I have written too polemically, it is only because of a passionate concern that we consider before it is too late whether we truly know what we are doing." Nor is there any mistaking his stern rigor as a moralist. But an obscurantist, a divinely inspired crusader against science, a man indifferent to the demands of rational discourse? Nothing could be farther from the truth.

Kass's Aristotelianism, as he would be the first to say, is hardly the reigning school among today's professional philosophers; but neither is it, as some commentators have suggested, a quasi-religion. Kass is able to speak of the "soul," of a living creature's "telos," and of what is "natural" without irony or embarrassed qualification because these are crucial terms in one of the first great systems of Western science. Whatever Aristotle's deficiencies, he is no less reliable a guide to the moral life of human beings than, say, Immanuel Kant or John Stuart Mill, the thinkers whose key principles—rational autonomy and utility, respectively—are too often assumed to define the limits of modern ethical discourse. If a lionized academic liberal like Martha Nussbaum can embrace Aristotle without being denounced as a minion of Pat Robertson and the Christian Right, why not Leon Kass?

As for Kass's resort to emotional responses in assessing new technologies—what his opponents dismiss as "yuck" reactions—it is difficult to see this as a problem. After all, *Brave New World* is not an implausible picture of developments that our science may yet deliver; as Kass observes, its similarities to present-day society are "disquieting, especially since our technologies of bio-psycho-engineering are still in their infancy." Nor is there anything unrealistic about the scenarios that he himself devises. Kass presents these possibilities not just for shock effect, but also to suggest boundaries in human nature that, being so widely recognized, deserve presumptive respect. "Revulsion," he acknowledges, "is not an argument," but that is no reason to keep it from informing our arguments.

That boosters of biotechnology would take offense at Kass's appeal to emotion is itself curious, since they constantly do the very same thing. No speech, editorial, or feature story endorsing the most controversial new areas of medical research is complete without some vivid reminder of the real people suffering from juvenile diabetes, Parkinson's or Alzheimer's disease, or any number of other dire ailments who might possibly benefit from such work. There is nothing inherently wrong with this tactic; the plight of such individuals is central to the bioethical debate, and their claims *should* move us. But these feelings, too, are not arguments, and should not be allowed to sweep objections from the table. They represent what one might call the "wisdom of compassion"—a counterpart in every respect to Kass's much-derided "wisdom of repugnance," but one whose legitimacy is seldom questioned.

Nor, finally, is there any truth to the portrait of Kass as a strident rejectionist of biotechnological progress, someone who, given his druthers, would dissolve the National Institutes of Health and padlock the research labs at Merck and Pfizer. As the essays in *Life, Liberty, and the Defense of Dignity* make clear, Kass supports many recent advances, opposes others, and is complicatedly opinionated about any and all of them. Defending Kass in *USA Today*, the political theorist William Galston—a former domestic-policy adviser to President Clinton, and a thinker who differs with Kass on a number of bioethical issues—has neatly laid out his positions:

> Kass welcomes the transplantation of organs from both cadavers and living donors but opposes their purchase and sale. He welcomes gene manipulation to treat individuals with ge-

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netically based diseases but opposes the use of these techniques for eugenics and the production of designer babies. He favors the use of drugs as one method of treating mental illness but is concerned about the casual use and misuse of mind-altering drugs. He endorses in-vitro fertilization to enable infertile couples to have children but resists use of the technology for human cloning. He supports medical advances that enable individuals to live healthily and well into old age but raises doubts about the wisdom of striving for immortality through science.

What, precisely, does Kass think should be done with respect to the biotechnological developments he opposes, or about which he has doubts or concerns? In most instances, nothing—except for the exercise of greater care and deliberation. In others, regulation or the denial of public funding. And, in a few cases—the sale of organs and human cloning—outright legal prohibition.

IT IS here, of course, in the possibility of government action, that we come to the heart of the matter. Whatever Kass's critics may claim, their opposition to his leadership of the President's Council on Bioethics has never really been based on fears about his supposed irrationalism or unthinking prejudices. To the contrary, they have worked so hard to discredit Kass because, as they have reason to know, his powers of analysis and rational persuasion are all *too* formidable—and because he now has the ear of the President and the public.

Consider the question of human cloning, an issue that Kass has been thinking and writing about for decades. Why ban it, whether for reproduction or research? His reasons, laid out at length in one of the most imposing essays in the collection, run the gamut from the strictly technical to the inescapably ontological. With respect to cloning for reproduction, there is the fact that the experiments done thus far on animals have resulted overwhelmingly in fetal deaths, stillborn infants, and, in the rare instances of "success," a disturbingly high rate of disability and deformity. There is the simple but too often ignored question of "what it would be like to be the cloned child," one's life "forever scrutinized in relation to that of the older version." There is the prospect of transforming "begetting into making," with children reduced ever more to the status of artifacts and commodities, and of granting to parents powers of genetic control so complete as to be "inherently despotic."

As for cloning to create human embryos for research alone, Kass is no less resolutely opposed, and again for a range of reasons. Though he does not question the therapeutic promise of human stem cells—the "pluripotent" cells that may be used some day to create a range of replacement tissues and organs—he does think that claims about the unique powers of stem cells derived from cloned (and ordinary) embryos are exaggerated; stem cells taken harmlessly from children and adults have shown many of the same properties. Moreover, even if cloning were allowed for so limited a purpose, the inevitable result would be cloned babies. As Kass observes, we are unlikely to see a law that, while "permitting the creation of an embryonic life," would then "make it a federal offense to try to keep it alive and bring it to birth." Finally, and setting aside such practical questions, there is the ghoulish premise of such cloning: that nascent human life may be created solely for the purpose of "exploitation and instrumentalization."

Kass knows that his proposal for a federal ban on human cloning is "without American precedent, at least in matters technological" and that, in the end, such a ban might not even work. But, as he sees it, the stakes are too high to settle for any lesser measure, and should even make it possible to seek consensus among those who normally disagree on other questions relating to nascent human life:

> Cloning need not become entangled in our old familiar political thickets. It is not an issue of pro-life versus pro-choice. It is not about death and destruction, or about a woman's right to choose. It is only and emphatically about baby design and manufacture: the opening skirmish of a long battle against eugenics and against a posthuman future.

IS LEON KASS persuasive? To my mind, usually but not always. For example, although I sympathize with his wish, captured in the above passage, to separate the most vexing questions raised by our new biotechnologies from the interminable bitterness of the abortion debate, the overlap seems to me unavoidable. His own views about the moral status of the human embryo clearly place him in the conservative camp, but at the same time he repeatedly rejects, if only in passing, the idea of a generalized and absolute "right to life." In essays otherwise notable for their candor, the abortion issue thus looms unaddressed, as if Kass were concerned that on this subject, his own prudential Aristotelian approach would antagonize both potential supporters on the Left and confirmed allies on the Right.

As for his dark ruminations about the biotech-

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nological future, I must confess that I find it difficult to share his deep sense of foreboding—not because I welcome the changes he fears but because, even should they come about, I doubt they would result in a way of life meriting the description "posthuman." Great as our capacity may become to manipulate the particulars of our bodily existence, I see little prospect of its producing a society whose members, as Kass says of the denizens of Huxley's *Brave New World*, "do not read, write, think, love, or govern themselves," a society in which "art and science, virtue and religion, family and friendship are all passé." Such alarmism seems to me to give too much credit to the more extravagant claims of the biotechnologists, and to a degree even to partake of their reductionism. Our natures, I suspect (and hope), are not so malleable as all that.

BUT IF Kass proves to be a not altogether convincing prophet, he remains an indispensable teacher and admonisher. No one else, and certainly no other American bioethicist, brings such moral depth to the analysis of our newest medical technologies, or describes with such poetic insight the human goods that they often compromise. One need not believe that cloning, gene manipulation, and psychoactive drugs are the potential building blocks of some future dystopia to agree with Kass that they cry out for serious scrutiny and perhaps public action; their discrete evils, which he so brilliantly catalogues, are quite enough by themselves.

No less to the point, considering the ugly campaign that has been mounted against Kass, is the exemplary fairness with which he himself examines these agonizingly difficult questions. As chairman of the President's Council on Bioethics, he has—predictably, to anyone who has followed his work—shown no desire to drown out contrary voices or simply to ratify his own views. The one substantial document that the Council has produced during his tenure is a book-length report on human cloning, and it is, by any measure, a complete and even-handed treatment of the subject, giving all sides their say.* Indeed, the Council's final recommendations on the issue—in favor of an indefinite ban on "cloning-to-produce-children" but of only a four-year moratorium on "cloning-for-biomedical-research," subject to further study and review—fall short of Kass's own stated policy preferences.

That Kass has performed his duties so conscientiously is unlikely, of course, to silence his more intemperate critics. However different their motives—from disease-sufferers understandably impatient for cures to liberals who see the Inquisition lurking behind every moral scruple voiced by a conservative to free-market absolutists and their friends in the biotech industry—few are interested in the sort of wide-ranging discussion that Kass insists upon. They want a world composed exclusively of biotechnological green lights, and Kass, to their continuing dismay, too often says "slow down" and even "stop," refusing to let mere science have the last word on what our humanity demands of us.

* *Human Cloning and Human Dignity: The Report of the President's Council on Bioethics*. Public Affairs, 350 pp., $14.00 (paper).

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Telecom Undone—A Cautionary Tale

Peter W. Huber

SELDOM HAS a chairman of the Federal Communications Commission (FCC) been heard to anticipate the demise of the most important sector of the industry he regulates. Yet in a speech to a Wall Street gathering in October, Michael Powell, chairman of the FCC (and son of the Secretary of State), summed up his view of the state of the nation's telecommunications companies as follows: "Few are prospering. Few are growing. Few are spending. Few are investing. The status quo is certain death."

Powell's biggest worry is the "wireline" telephone industry, which carries most of the nation's data and voice communications. It accounts for the lion's share of the industry's revenues—far more than broadcasting—and supplies critical infrastructure for our entire information-centered economy. Three years ago, this sector was seen as the epicenter of innovation and profitable new investment. Today, it is in shambles.

The hundred-year-old Bell telephone companies, once the rock-solid investment of choice for widows and orphans, are now in sharp decline. The $65 billion poured into the market by their competitors between 1997 and 2001 is now worth under $4 billion. AT&T's stock, which peaked at $60 in 1999, stood at $8 last July. Lucent, the owner of Bell Labs and not long ago the largest vendor of telecom equipment, has lost over 90 percent of its value since January 2001; it has announced a reverse stock split to escape delisting on the New York Stock Exchange. Nortel, its main rival, is in even worse shape. To top it all, antitrust trial lawyers have vowed to turn the older local phone companies—which are the few remaining pockets of solvency in the industry—into (in the words of one legal observer) the "next asbestos or tobacco companies."

Of course, the rest of Wall Street has had its troubles, too—but the collapse of the telecom sector may be what dragged it down. Information technology (IT) delivered about two-thirds of the rise in labor productivity in the last half of the 1990's. Circuit designers, chip fabricators, software companies, and many other elements of the IT economy now depend on new investment and innovation in the telecom sector. In an industry that has historically accounted for between $50 and $150 billion dollars of capital investment every year, capital spending has plummeted.

The telecom collapse is now often chalked up to several years of irrational exuberance on Wall Street, together with accounting fraud by WorldCom, one of the industry's leaders. But—as Mi-

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chael Powell, for one, appears to recognize—there is a serious case to be made that the industry's refractory problems can be traced to a single source: the FCC's own implementation of the Telecommunications Act of 1996. Thereby hangs a most dismal tale.

THE LAST time Congress enacted a telecommunications law of comparable scope to the 1996 act was in 1934, when it created the FCC itself and codified the core policy of maintaining telephone companies as regulated monopolies. The 1996 act, passed by wide majorities of both houses of Congress and signed by President Clinton with great fanfare in the Library of Congress, was intended to do just the reverse: to open telecom markets fully to competition, and to deregulate them.

The job of deregulation had been started in 1984, when the courts split the old Bell System into its local and long-distance components. The decision left the local phone companies, which account for the majority of telephony's networks and revenues, to their "natural monopolies," barring them from entering other markets. Only on the long-distance side was competition opened up to new carriers and an emerging family of "online service providers," the companies we now know as dot-coms and Internet portals.

By 1996, it had become clear that this upstairs/downstairs division of the industry no longer made sense. Wireless services were booming. Cable companies were upgrading their networks to provide high-speed local connections to the web. Long-distance carriers were poised to invest tens of billions of dollars in new fiber-optic networks snaking through business districts in Manhattan, Chicago, and other major urban markets. E-mail, web pages, and other data services were beginning to offer distinct but nevertheless competitive alternatives to local voice calls. And local phone companies were clamoring for permission to extend their networks and businesses into long distance, video, and data.

One might suppose that the way to open an industry to competition and deregulate it is to do just that. In the early 1980's, that is pretty much how trucks and airlines were deregulated. But, for reasons that seemed sensible at the time, the 1996 act proceeded differently.

It started in the right place—telling states they could no longer forbid competition in local phone markets and outlining a process for admitting local companies into long-distance markets, state by state. The latter process, however, was tied to the development of a new body of regulation. Existing (or "incumbent") local companies would be required to interconnect, on reasonable terms, with their upstart competitors, and also to provide nondiscriminatory access to such things as 411 databases. The reasoning was that nobody would sign up for a new phone company's service if the new network were unable to place and receive calls to and from the old. In addition—crucially, as it would emerge—incumbent local phone companies were required to "unbundle" parts of their existing networks and lease them to competitors at wholesale rates. This would allow the competitors to get a foothold without having to replicate every last wire and switch from the get-go. In other words, unbundling would lower the costs of competitive entry.

But the 1996 act did not specify just how *much* unbundling was to occur; this is something the FCC was expected to work out later on. The single guideline in the act stipulated only that, before defining an "unbundled network element," the FCC should "consider" whether competition would be "impaired" without it. As to what these elements were worth—their wholesale prices—the FCC was told in equally cryptic terms that this calculation was to be "based on cost."

ENTER NOW the human element. In 1996, the man ensconced in the chairman's office at the FCC was Reed Hundt, an old and trusted friend of Vice President Al Gore. The two had been boyhood buddies at St. Albans, a prep school in Washington, D.C., and Hundt had advised Gore on his two Senate campaigns, his 1988 presidential campaign, and his 1992 run with Bill Clinton for the White House. Neither Clinton nor Gore ever bothered to interview Hundt for the FCC chairmanship. Clinton had handed telecom to Gore, and Gore handed it to Hundt.

Hundt was already in the third year of his tenure when the new act became law in early 1996. Up until then, his main focus had been on wireless services, where he had already orchestrated some dramatic changes that were a harbinger of things to come. Although something of a digression from our main concern, that story is too pertinent to ignore.

In 1993, the same year in which it confirmed Hundt's appointment, Congress had for the first time authorized the FCC to auction off licenses for radio spectrum. Such auctions, the reasoning ran, were the most efficient way to go forward, and would allow the wireless industry to get on swiftly with building its towers and rolling out service.

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Hundt proceeded to sell off a slew of new licenses. For a vigorous young administration committed to reinventing government, it made for a wonderful photo-op when he was able to go to the White House to present a symbolic check for $7.7 billion to the President.

But it turned out that Hundt had also embellished the new auction rules with many—too many—preferences, bidding credits, and low-interest loans. Successful court challenges delayed several of the auctions, and while the bidding went sky high, much of what was bid was never ultimately paid. The most costly misadventure was launched in 1995, when Hundt sold almost $5 billion of radio spectrum to a company called NextWave in an auction reserved for "small businesses and other designated entities." Hundt had neglected to make sure that the small and the designated were good for this kind of money; they were not. In due course, the FCC would re-auction the same spectrum for $16 billion, NextWave would sue, and the wireless industry would find itself under a cloud of $21 billion of liability, with no usable spectrum to show for it. The issue is still unresolved today, and a huge block of idle spectrum still hangs in the balance.

While Hundt was conducting wireless auctions, Congress was drafting the 1996 Telecommunications Act. As soon as it passed, the industry began to learn the new meaning of "unbundling." It was unlike anything that had occurred before.

There was a day, remember, when you either leased your phone and your telephone line together, from the one and only phone company, or you did not lease either one; the freedom we enjoy today to buy our telephones and modems separately from Radio Shack or Dell can be traced back to unbundling rules that were put in place in the 1960's. Then came the 1984 break-up of AT&T, which forced a similar unbundling of local and long-distance services.

The unbundling required by the 1996 act was rather different. It was to be a wholesale unbundling of a wide variety of "network elements," and the new elements thereby created were to be leased not to consumers but to competitors. Admittedly, it made a kind of sense. If you live in an apartment on East 87th Street in Manhattan, you really have no interest in leasing a mile of "unbundled" copper loop leading to Verizon's fortress-like central office near the corner of 97th and Lexington so that you can then drop in at Radio Shack to buy a ten-million-dollar telephone switch and all the rest of what it takes to transform a wire into a functioning dial tone. But a long-distance company might well opt to do just that, using its own switches and operators to provide the rest of a service package.

What would this mean from the standpoint of government regulation? The old unbundling had shrunk the effective scope of such oversight: the regulated phone company sold you less, so the regulator had less to regulate. The new would apply a new layer of wholesale-price regulation to as much of the network as the FCC chose to unbundle. Some $300 billion of assets, with a depreciated book value of almost $150 billion, could now be put up for sale, in pieces and at prices to be determined by one of Al Gore's oldest and most trusted friends.

ISSUED JUST four months after the passage of the 1996 act, Hundt's rules unbundled absolutely everything. The $25 electrician's box on the outside wall of most houses, where the phone company's lines connect to the inside phone wiring. The loop that runs to the central office. The switching equipment and software in that office. The high-capacity fiber-optic lines that connect local offices to the long-distance network, along with operator and directory-assistance services. And more—much more.

Astonishingly, the new rules also required incumbents to offer all the unbundled elements as a single re-bundled package—at the new wholesale rate. New entrants, in other words, would not have to *build* a single new item or a single new inch of network themselves if they did not care to. They could compete simply by placing a new label on the facilities that they had requisitioned, customer by customer, from the old phone company.

No less astonishing were the prices of Hundt's unbundled elements. They were tied not to what it had actually cost to build things but to models that predicted what it *would* cost a perfectly efficient competitor to rebuild them from scratch, using the latest technology at the latest prices. In an industry characterized by rapid innovation and inexorably falling prices, the models thus effectively wrote off about half the book value of the existing investment.

A competing phone company can now lease from Verizon, in perpetuity, an unbundled copper telephone line from an East 87th Street apartment to the basement of 97th-and-Lexington for about $15.50 a month. It can also lease, at regulated rates and for as long as it may wish, a cage in Verizon's basement to house any equipment it might care to connect to the line. Switching service will run the new company $5 a month. Caller ID—which Verizon itself would sell to ordinary customers for $8

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per month—will cost just twenty cents at wholesale. The prices are different in upstate New York, and different again in Kansas (where, above the corn fields, unbundled copper costs $23 a month). Nationwide there are many thousands of discrete prices for unbundled elements.

As Hundt would later explain, he intended to write rules that would "cause a flood of new investment and innovation that would wash away the advantages of the incumbents—and erode their market capitalization." Many would-be competitors enthusiastically supported that plan, as did their financial backers on Wall Street. Competition was going to develop quickly, and would soon be very profitable.

In the meantime, the one thing that was really growing was the regulatory enterprise. Regulating networks inch by unbundled inch required much finer oversight than regulating them by the bundled mile; setting prices by means of computer models required much keener judgment than setting prices on the basis of historical costs. In short order, the FCC added over 10,000 new pages to the Federal Register.

In the summer of 1996, Hundt attended the Democratic National Convention, seated in the Vice President's box. Gore's acceptance speech promised Internet access for every classroom. As Hundt has recalled the occasion, "the FCC, perhaps for the first time in history, drew extended applause from a political party's nominating convention." The following year, with the new rules largely worked out and Clinton-Gore safely reelected, Hundt resigned from the commission, a year before his own term as chairman was to expire.

WHAT WENT wrong? In early 2000, just before the crash, Reed Hundt published a book entitled, *You Say You Want a Revolution: A Story of Information Age Politics*. Reflecting the financial euphoria that still prevailed as he was writing it, Hundt's book is a recklessly candid, self-congratulatory account of what he did and why he did it in his nearly 48 months as FCC chairman. In hindsight, it makes for a devastating self-indictment.

The passage of the 1996 act, Hundt writes gleefully, offered "the chance of a lifetime." A Republican Congress had authorized a timid blueprint for incremental change in the information sector, but what the country really needed was a revolution. By means of his unbundling and price-setting rules, and in company with Al Gore and "an eclectic set of other political allies," he was going to help shape the new economy of "high growth, low inflation, productivity gains, and explosive entrepreneurial enterprise."

Economists on the FCC's staff warned that if wholesale prices were pushed too low, the stock market would be prompted "to sell off the Bell stocks, [and] bring the Dow crashing down." But Hundt was confident he could calibrate things just right. And he knew he was succeeding because "Bell stocks rose during our deliberations." Hundt's Democratic champions in Congress, Edward J. Markey and Fritz Hollings, gave him the cover he needed to forge ahead. For their part, the Republicans left him alone because they were sedated by the rising stock market.

By the end of 1999, according to Hundt's estimates, some $30 billion had been invested in the new enterprises made possible by his rules. There were hundreds of new local phone companies of various kinds, along with many dozens of new local carriers of data. Nine of the latter had gone public, or were about to do so.

Nobody was bankrupt in 1999, of course—but then, nobody had yet found out what Hundt's rules really meant. At that point, the lift in the telecom bubble was still coming from the promise and not the actuality of what the rules would deliver. The regulatory blueprints written by Hundt had to be implemented by state commissions and cleared through state and federal courts; that process did not go quickly.

Indeed, it was in large part because of all this back-and-forth between the agencies and the courts that the regulatory decisions Hundt made in 1996 and 1997 did not begin to have any real impact on the market until several years later. (Nearly 80 percent of the transfers of unbundled elements have occurred only in the last 24 months.) By then, Hundt himself had joined the party. Very soon after he left the FCC in 1997, he was advising or on the boards of Allegiance Telecom, Ascend Communications, Brience, CoreExpress, eYak, Global Connect Partners, Phone.com, and Sigma Networks, among others. Reportedly he made over $15 million on stock options received for his services, including millions of dollars of stock in NorthPoint Communications that he cashed out just a few quarters before NorthPoint filed for bankruptcy.

WALL STREET itself completely failed to grasp what Hundt's rules entailed, at least until the economic impact finally began to show up on the bottom line. Only then did the markets come to understand that something had gone terribly wrong.

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Since then, telecom stocks have been in freefall—and not just some telecom stocks, but all of them. To understand why that should be so, one must consider how Hundt's rules look from the perspective of each major group of players in the industry.

Let us start with the incumbent phone companies, the principal targets of Hundt's unbundling. Every inch of their networks now has two prices. Retail prices—what the companies can charge to consumers—are still regulated, as they have been for the better part of a century, under schemes that are generally pegged to actual historical costs and that subsidize rural and residential users at the expense of urban and business users. Wholesale prices—what they can charge competitors—are regulated by Hundt's models, which look to future costs and which are not supposed to subsidize anyone. The upshot is that, for the exact same service, wholesale prices are sometimes lower than retail prices, and sometimes higher. Ordinarily, imperfections in the price-regulating machinery tend to cancel each other out; here, competitors buy wholesale where wholesale is cheaper than retail, and consumers buy retail where retail is cheaper than wholesale. One way or another, incumbent companies end up with sharply lower revenues.

But the regulatory impact is perhaps even worse for the new investors, who (one might suppose) should be making out like bandits. The trouble is that the serious ones have been building real, competitive networks, mile by mile, for many years—in fact, since well before 1996. Some have been running their own fiber-optic networks to reach large business customers in urban markets—WorldCom and AT&T, for example, spent some $25 billion to purchase two such companies in 1996 and 1998. And cable operators have been aggressively upgrading their own wires to provide both voice and high-speed digital channels. Thanks to Reed Hundt's computer models, however, competitors with real networks—and real liabilities—are now squared off against network-free competitors, and have found their stocks downgraded as a result.

And what about those network-free competitors themselves? Take a company like Z-Tel, founded and run by lawyers, bankers, management consultants, and an antitrust litigator. Such companies have brought to telecom the same talents that Enron brought to electricity. They build networks out of paper, and whatever actual money they invest is poured into complex software and computer systems developed and optimized for playing the regulatory game.

A big problem with running paper networks is that any number of others can play the same game. If there is any margin in this line of business, the competition quickly makes it razor-thin. And it may be razor-thin in any case: rebranding someone else's network as your own turns out to be an expensive proposition, and the cost of inserting a new middleman between the network and the customer often swamps even the ruinous discounts that regulators have imposed. (Z-Tel claims to have invested more than $100 million to create an interface with the incumbent phone companies, and perhaps it has.) As a consequence, many would-be Z-Tels—there were hundreds of them at one point—have already landed in the financial dustbin.

As I say, all this took a while to work itself out. When Hundt testified about telecom's woes last October before the Senate Commerce Committee, almost his very first words were that it had been five years since he had left office. If the telecom industry was in a shambles (the implication was), it had not happened on his watch.

WILL REGULATORS ever recover their sanity and incinerate Hundt's rules? At this point, that will be more difficult than it sounds. Some nine million customers are now being served with re-bundled packages of unbundled elements, and both sides have a stake in the status quo. Besides, even if a decision were made to curtail unbundling sharply, it is hard to imagine it happening quickly, or things ever being taken back to where they ought to have started. The harried Michael Powell is now overseeing a major review, but fundamental changes in so large a regulatory system take years to implement and fight out in the courts.

The 1996 act could be amended, and the new Congress might conceivably do just that. The Senate Commerce Committee will now be headed by John McCain, one of only five Senators (and the only Republican) to have voted against the 1996 act. But in its six years of operation the act has so sharply divided the interests of telecom carriers that one cannot easily imagine how a coalition could be formed to bring about a change of direction. Climbing out of this quagmire will be far more difficult than sliding into it.

In the meantime, as Hundt's rules meander back and forth through the federal courts and the FCC itself, the center of action has shifted to the state commissions where they are actually implemented. In a handful of the most influential states, most notably New York, California, Texas, Ohio, and Illinois, ambitious regulators—mini-Hundts—see little to lose and much to gain by pushing wholesale

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rates lower and lower. In the near term, the spoils of regulation can be spread around to create more friends than enemies.

Most ominously of all, the trial lawyers are now circling the regulatory road kill. Countless failed enterprises and disappointed investors are searching for someone to blame. They cannot sue Hundt, or his computer models, or the state commissions that now run those models; they can sue the still-wealthy companies that own the legacy network. So the plaintiffs' trial bar—the most loyal, aggressive, and well-financed interest group in the camp of the Democratic party—is now litigating to transform Hundt's rules into treble-damage antitrust suits. Some thirty-six such suits have already been filed.

Is there any basis to them? WorldCom, Z-Tel, and others have undoubtedly encountered many problems as they have labored to build new businesses out of unbundled network elements, but certainly no worse problems than those faced by the incumbent phone companies that they or their customers are now suing. Implementing Hundt's rules has been a logistical nightmare all around. Tens of billions of dollars have been spent to facilitate the transfer of tens of millions of elements from old companies that built them to new companies that want them. The incumbents have certainly fouled up in their scramble to comply with the new rules; the competitors have fouled up even more in administering their side of things, and in more than a few documented instances they have deliberately falsified their records in an attempt to shift the blame. Thrashing out these issues between carriers has been difficult enough; the antitrust suits now raise the stakes enormously.

Just what the courts will do with the suits remains entirely unclear. Two years ago, a federal appellate court in Chicago held that Hundt's rules go well beyond the antitrust laws; the 1996 act has its own enforcement structure, centered in the FCC and state regulators. This June, however, a second ruling by the federal appellate court in New York held just the opposite. It will take several more years to determine whether Hundt, an antitrust lawyer himself before he landed at the FCC, has indeed transmuted the law of telephones into the law of tobacco. If he has, the torch will have been passed—from Al Gore, to Reed Hundt, to the class-action racketeers.

AT THE end of this depressing tale one is still left wondering: how do generally rational and responsible people create such a gigantic mess?

There is no hint of outright corruption in this history, though there is something distinctly malodorous about an FCC chairman prospering so handsomely, and so quickly, when he signs up to help companies exploit the rules he wrote just a few months earlier. No, in the end the failure of the 1996 act reflects corruption of a different kind, a corruption of political culture.

Hundt was a Clintonite who eagerly embraced the Clintonite ethos. Exuding confidence, daring to be bold, he was a man in a hurry, impatient with the plodding engineers who build real networks. So his rules set prices based on models rather than on experience, and allowed new entrants to assemble new networks entirely on paper. All you had to do to compete in Hundt's village was to buy low and sell high. Potemkin could hardly have done it better.

But all this quick and painless competition required a stupefyingly complex labyrinth of rules. Such rules regulated the price of everything, not once but twice; they suppressed competition rather than promoting it; and they enriched no one but legions of lawyers (like me), plus accountants, economists, and still more legions of expert witnesses for hire. It was Hillary-care for the telecom industry, but better, since with it came the added conceit that this all-consuming regulation was just a stepping stone to—deregulation.

Tellingly, two of the strongest critics of Hundt's legacy have been Democrats of the old deregulatory school—in fact, the two men who orchestrated the deregulation of trucking and airlines two decades before Hundt took on telephones. They are Supreme Court Justice Stephen Breyer and Alfred Kahn, who chaired the New York Public Service Commission and later the Civil Aeronautics Board as it was being dismantled. Kahn has referred to Hundt's pricing rules as TELRIC-BS. TELRIC is the FCC's own acronym for Hundt's scheme—it stands for "total element long-run incremental cost." The BS is Kahn's codicil, which (he pretends to insist) stands for "blank slate": prices based on forward-looking computer models rather than historical books of account.

Could it have been done differently? A less ambitious and more patient man than Hundt would have unbundled much less. In two separate cases, the Supreme Court and three appellate judges have since concluded that that is what the 1996 act required him to do. A more modest and patient man would also have linked prices to actual rather than theoretical costs. As Justice Louis D. Brandeis argued in a 1923 opinion about the telephone industry, tying price regulation to monies actually spent in the past anchors prices in solid reality. By con-

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trast, forward-looking models of what things ought to cost in the future are unanchored to anything and can quickly lose touch with reality, especially when yoked to a wildly misplaced confidence in the power of a federal commission to reallocate several hundred billion dollars' worth of assets for the better.

AND THAT is pretty much the whole story: utopianism and meddlesome arrogance, both empowered by government. The telecom bubble of the late 1990's rose alongside the dot-com bubble because, like web programmers, regulators convinced many people that they could conjure up competition and wealth out of thin air. And behind this delusion lay politics—politics in the sense of public policy, and politics in the ruder, partisan sense as well. In fact the two were inseparable. As Hundt himself revealingly comments about a particular set of broadcast rules that he engineered: "we were helping the President and Vice President win reelection."

Hundt was in the room the day after the 1992 election when the new Vice President-elect huddled with his closest advisers in Little Rock. "Al grinned at us and said, 'Now we're running the White House. This is going to be fun.' We all laughed. . . . We would slay enemies, reward friends, celebrate victories, and find out what the Navy stewards served at the White House mess." So they did. Reed Hundt was Al "Information Highway" Gore one step down in the federal bureaucracy, where the policy wonk does not just talk of reinventing government, he publishes 10,000 new pages in the Federal Register, sets the stage for decades of destructive litigation in the courts, and transforms a cautiously phrased law into a death warrant for a vital industry.

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OBSERVATIONS

Watching Christopher Hitchens

Mark Falcoff

It is a good two decades since the journalist Christopher Hitchens first burst upon the awareness of the American media and intellectual class. Almost from the moment of his arrival in this country from Great Britain, he has been a howling success—far more so, indeed, than another British leftist, Alexander Cockburn, who came more or less at the same time and with whom he was formerly much paired.

Hitchens's rapid advance is traceable to several factors. Unlike most journalists, a notoriously indolent race, he is remarkably industrious and prolific. In sharp contrast to his American counterparts, he is also widely read in literature, history, and politics. His polemical skills are considerable, and he wields a razor-sharp pen with dexterity.

And there are two other essential elements in Hitchens's baggage. In his frequent television appearances, Hitchens is able to deploy a plummy English accent of the kind that causes garden-variety American liberals to swoon. Finally, he has been ready from the start to say perfectly outrageous, even obscene things about our society, our politics, and our foreign policy; this has earned him the bankable accolades "provocative" and "controversial," code words in mediaspeak for sentiments that can be extreme or perverse but still recognizably on the continuum of what everybody in enlightened circles already thinks.

Lately, however, Hitchens seems to have been shifting ideological gears. The first sign was the publication several years ago of *Nobody Left to Lie To*, a distinctly unadmiring book on Bill and Hillary Clinton. This little tome, whose title tells all, appeared at the very moment that the impeachment hearings and the Monica Lewinsky affair were approaching their climax in Washington. Not a few of Hitchens's admirers on the liberal Left felt that, all things considered, and regardless of whether he was right or wrong about the character of the President and Mrs. Clinton, this exercise was a bit, well, *unhelpful*. To compound the sin, Hitchens found himself entangled, through no fault of his own, in the investigation of the President by the special prosecutor when he revealed some inconvenient facts about Clinton's hatchet-man Sidney Blumenthal. So deep was the hot water into which he fell among his leftist friends that the *Washington Post* was driven to query him about the effect of these events on his social life; was he, an interviewer wanted to know, still being invited to Georgetown dinner parties?

Since September 11, 2001, Hitchens has ventured into even more perilous territory. Thus, he supported the decision of the Bush administration to go into Afghanistan to uproot al Qaeda's hold on that country. In his regular column in the *Nation* and elsewhere, Hitchens also confronted head-on the Left's generally forgiving view of Islamic fundamentalism, coining the colorful term "Islamofascism" to characterize Osama bin Laden, the Taliban, and other Islamist regimes and movements. More recently, in an article in the *Washington Post* ("So Long, Fellow Travelers"), he came out foursquare against the antiwar

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Left and in favor of a preemptive strike on Iraq. (One sample: "[T]he same people . . . who don't think Saddam has any weapons of mass destruction will argue the next moment that if attacked he will unleash them with devastating effect. . . . Instead of internationalism, we find among the Left now a sort of affectless, neutralist, smirking isolationism.") Perhaps not surprisingly, he announced at the same time that he would no longer be writing his column for the *Nation*.

WHAT HAS happened to Hitchens, and why? He himself would maintain that he has not changed at all; it is *others*, his former comrades, who have strayed from the true principles of socialist internationalism. But this is at best only partly true.

Originally a Trotskyist, at some point in the 1980's Hitchens drifted toward a kind of pink-tinged Euroneutralism *cum* knee-jerk anti-Americanism. There he seems to have stayed mired until only a year or so ago. His brother Peter, another erstwhile Trotskyist but now an outspoken Tory, recalls arguing with him on the relative merits of the Western and Communist systems at about the moment the Reagan administration was deploying SS-20 missiles in Europe to counter the Soviet threat. On that occasion, according to Peter, Christopher avowed fraternally that it was all the same to *him* "if the Red Army watered its horses in [the London suburb of] Hendon."

As if to underscore his enduring left-wing and *tiermondiste* credentials, Hitchens has been steadily in the forefront of the hard Left's crusade against Zionism and the state of Israel, working closely with the notorious Edward Said to give this low endeavor a patina of intellectual respectability (see their co-edited volume, *Blaming the Victim*, 1988). Over the years, as he himself recently put it, he has done "a good deal of marching and public speaking about Vietnam, Chile, South Africa, Palestine, and East Timor (and would do it all again)."

Some of his current writings, moreover, remain very much in the old mold. *The Trial of Henry Kissinger* (2001) purports to reveal the criminal nature of the policies carried out by the American Secretary of State during the Nixon era. It includes two chapters on Chile—a subject on which I can claim some particular expertise—that are highly revealing of Hitchens's polemical method. This consists of seizing upon one particular document or set of documents that seems damning, while wholly neglecting or passing over every relevant historical and political context. In the case of Chile, the simple fact of the matter is that, Kissinger or no Kissinger, Chile's Marxist president Salvador Allende, who features as the martyred hero in Hitchens's tale of American perfidy, would have peacefully finished out his term of office if he had not pushed his country into triple-digit inflation, wrought havoc with the rule of law, attempted to manipulate the armed forces, and allowed a free hand to squadrons of sinister "security" operatives from Cuba and East Germany. But one would never glean any of this from the skewed and reductive "history" offered up in *The Trial of Henry Kissinger*.

HITCHENS'S SLIPPERY way with facts and contexts can be seen to even clearer effect in his latest book, *Why Orwell Matters*.* George Orwell is of course one of the seminal intellectual and political figures of the 20th century, and for many the most important precursor of neoconservatism. He is best known for his novels *Animal Farm* and *1984*, the first an evident satire on the Soviet Union, the second a chilling look at our possible future under a Soviet-style totalitarian state. But it is a lesser-known volume, *Homage to Catalonia* (1952), which most clearly charted his political journey.

As a man of the Left, Orwell had gone to Spain in 1937 to fight against the fascist regime of General Franco. He joined the POUM militia, a socialist formation with political links to Britain's Independent Labor party. But his experiences in Spain afforded him a rare opportunity to observe Stalinism in action, as the Moscow-directed forces in the Spanish popular front were driven less to combat Franco than to liquidate other left-wing groups, often by means of the most brutal instrumentalities. Stunned by his near-inability, once he returned to Britain, to get a hearing in "progressive" circles for his account of events, Orwell became a major critic of leftist and, during World War II, pacifist humbug.

Thanks to his crystalline prose and his clear thinking about politics, Orwell's prestige has only risen since his premature death in 1949. But so has the bifurcation in left-wing views of his legacy. The serious pro-Communist Left, particularly in Britain, continues to regard him as a turncoat: an ex-socialist who sold out to the establishment. More artful (or more cynical) persons in the academic and literary worlds, especially in the United States, have preferred to reinterpret Orwell as a prophet of globalization and American "empire." I can recall a conference at Hofstra University several years ago at which a professor proclaimed with assurance that the totalitarian society depicted in *1984* was—the United States!

Which brings us back to *Why Orwell Matters*. The book amounts to a short tour through Orwell's writings, organized around several key themes, the evident purpose of which is to identify Hitchens himself with certain ideas that informed the master's work. There are in fact some broad similarities: Orwell was, and remained to his death, a self-avowed socialist and anti-Stalinist as well as an anti-imperialist and anti-Zionist. (The apparent anomaly of his anti-Zionism is a subject

* Basic Books, 208 pp., $24.00.

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unto itself.) In each of these respects, Hitchens can be said to resemble him. What is far less clear, however, is whether Hitchens has ever been, like Orwell, an anti-Communist (as opposed to merely an anti-Stalinist), much less whether he was ever, again like Orwell, a firm opponent of the foreign policies of the Soviet Union and its various clients and satellites.

As for other points of contact: it is also true that Orwell harbored views on England, on feminism, and on the political culture of the literary Left that were then and would today be profoundly unacceptable to right-thinking (or rather left-thinking) people. Some of these, particularly Orwell's attitude toward women and homosexuals, Hitchens clearly does *not* share. Reflecting his own evident change of mind about the U.S. since September 11, Hitchens also now regrets that Orwell lacked any real curiosity about American culture, and himself goes so far as to entertain the thought that "the American Revolution, with its promise of cosmopolitan democracy, is the only 'model' revolution humanity has left to it."

But this exercise serves only to underline the difficulties that inevitably freight any attempt to compare the attitudes of two writers who are so far distant in time. Here again, context, Hitchens's weak point, is crucial. Orwell was indeed a firm anti-imperialist. But he died before the vast majority of the colonial world had been freed from European domination. If he were alive today, would he be so confident in his views? To what extent are the values of Orwell's (and Hitchens's) "anti-imperialist" Left—to what degree, for that matter, is ordinary human decency—respected and honored in such post-imperialist, post-colonial nirvanas as Vietnam, Cambodia, Cuba, Syria, Algeria, Pakistan, almost all of sub-Saharan Africa, or the precincts of the Palestinian Authority? How does the fate of their peoples today compare with the earlier period of European administration? Although Hitchens does manage to record his own disillusionment with Zimbabwe under Robert Mugabe, from this lone concession he does not draw any larger lesson about what has been wrought around the globe by a half-century of post-colonial praxis.

IN HIS attempt to rescue Orwell from both the strictures of the Stalinoid Left and the tendency of American neoconservatives to claim him as a precursor, Hitchens is likewise only partially successful. It is perhaps telling that the chapter on the depredations of the Left is more than twice the size of the one on the alleged misappropriations of the Right. In the former, Hitchens takes on and dispatches such intellectual frauds as Raymond Williams ("the overrated doyen of cultural studies") and the French Nobel laureate Claude Simon, as well as more recent leftist revisionists who have invented a "McCarthyite" Orwell based very loosely on the latter's distaste for British fellow travelers of Soviet Communism. In the chapter on the Right, Hitchens's entire argument against those who in his opinion have illegitimately dragooned Orwell into the ranks of conservatism may be summarized in this rather lame sentence: "George Orwell was conservative about many things, but not about politics."

Well, yes, up to a point. But (context once more) "politics" itself is not about the same things—power, wealth, authority—it was about in the 1930's and 40's. Today, at least in the advanced industrial countries, politics has devolved into a competition over status, culture, and "lifestyle choices." Where would Orwell, a "conservative about many things," find himself in an America where key Senate races have been determined by candidates' positions not on Social Security or tort reform or trade policy but on abortion? Where would Orwell, a firm English patriot, place himself in the controversy over the dissolution of the United Kingdom and its seemingly inevitable submergence into the European Union, a fictitious entity run by faceless, corrupt, overpaid, and unaccountable bureaucrats in Brussels? As an outspoken defender of self-determination for colored peoples, what attitude would he take up on the subject of multiculturalism—which is to say, the abdication by European or American societies of the right to have newcomers respect their values, their languages, their civil and social pacts?

Evidently, Christopher Hitchens still believes in politics in the old sense. This may hint at the root of his current problem with so many former friends and allies with whose general orientation he still tends to identify himself. On the subject of the Clintons, for example, Hitchens could not help noticing, as a leftist of the older sort, that the President and his wife were impostors—opportunists who mouthed progressive slogans while striking whatever deals were necessary to advance their careers. The reason this argument fell flat in liberal circles is easy to explain. Since the Clintons were on the right side of a "woman's right to choose," on the right side of affirmative action, on the right side of bilingual education, and so forth down the line, the rest—including Clinton's cozy relationship with shadier elements in the business and financial communities—simply did not matter.

Something similar could be said about the failure of Hitchens's current position on Afghanistan and Iraq to resonate with the community of *Nation* readers. Here he is again in the *Washington Post*:

> You might think that the Left could have a regime-change perspective of its own, based on solidarity with its comrades abroad. . . . When I first became a socialist, the imperative of international solidarity was the essential if not the defining thing, whether the cause was popular or

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risky or not. I haven't seen an anti-war meeting all this year at which you could even guess at the existence of the Iraqi or Kurdish opposition to Saddam, an opposition that was fighting for "regime change" when both Republicans and Democrats were fawning over Baghdad as a profitable client and geopolitical ally. Not only does the "peace" movement ignore the anti-Saddam civilian opposition, it sends missions to console the Baathists in their isolation, and speaks of the invader of Kuwait and Iran and the butcher of Kurdistan as if he were a victim of George W. Bush the aggressor.

Very well said, indeed. To judge by the slogans and statements of the antiwar Left, however, this line is unlikely to take Hitchens very far, and that is because none of his former comrades and admirers seems particularly interested in Iran, Iraq, Afghanistan, or even, when push comes to shove, the fate of the Palestinian people. All they know, and all they need to know, is that they hate America and its supposed surrogate Israel. In such a situation, there is precious little dialogue to be teased out; not even an incendiary tract on Henry Kissinger is likely to redress the weights.

So where does that leave the "controversial" and "provocative" Hitchens? As George Orwell discovered, and many former leftists after him, the worst possible thing one can do is to speak the truth to one's comrades. That is how many people ended up becoming neoconservatives in the first place—that, plus the hard work of thinking through the implications of each of their wonted attitudes and allegiances. But hard work of this kind is what still lies ahead of Hitchens, who himself has yet to face the truly troublesome points of consanguinity between the leftism he still espouses and the causes he now deplores—including the phenomenon he identifies by the ideologically slanted term Islamofascism—and who has sought to cover his confusion by piggybacking on the reputation of a much greater man. It will be interesting to watch the further unfolding, if there is to be one, of this work in progress.

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OBSERVATIONS

Jews and Photography

William Meyers

JEWS HAVE played an indispensable role in the history of American photography, at least as important a role as blacks in the development of jazz. It is a bit of a puzzle why this should be so, if only because, well into the modern era, Jews were not notable for their work in the plastic arts. Although it is true that a number of Jews in Eastern Europe were active in photography during the period of its first growth in the 19th century, it was only in the 20th century and in America that the numbers involved in every facet of the art became large, and their talents very conspicuous.

Several recent exhibitions help to focus the question. The first was *New York: Capital of Photography*, which ran at the Jewish Museum last fall and is now on tour. Of its several hundred pictures of New York City, a startlingly high proportion—about 85 percent—were taken by Jews, moving the show's curator, Max Kozloff, to contribute an essay to the catalog pondering the issue of a "Jewish sensibility" in photography. The other two shows, occupying rather disparate points on the photographic spectrum, were *Shekhina*, an exhibit of religion-related pictures by the actor Leonard Nimoy, and (if less pertinent to our theme) the retrospective of portraits by Richard Avedon at the Metropolitan Museum of Art.

To see the connecting links among these events requires some history.

ALFRED STIEGLITZ (1864-1946) was the first American Jew to affect the larger culture with a camera. In contrast to most of those who would come after him, Stieglitz's parents were German (rather than Eastern European) in origin, and they were rich. His father had abandoned his religion upon coming to America, and Alfred seems to have become most vividly aware of his family's Jewishness only when his father was refused membership in the exclusive Jockey Club.

In his young manhood, Stieglitz spent time studying in Germany, and it was there that he both learned photography and absorbed a romantic devotion to art with a capital A. On his return to the U.S. in 1890, he quickly came to dominate art photography, remaining in this position by dint of the brilliant pictures he took, the magazines he edited, his involvement in photographic organizations, and the influential galleries he ran. In the early part of the 20th century, Stieglitz did more than any other single individual to have photography recognized as an art, worthy of serious attention to the same degree as painting, drawing, and sculpture.

The body of Stieglitz's photographs puts him, however, outside the arc of development of most of the Jewish photographers who succeeded him. True, he was noted for pictures of New York, but what interested him most was the city's buildings, seen as abstract blocks in artful arrangements; the citizens of the city did not much figure in his work. For most later Jewish photographers, it was to be the other way around. Also atypical was his interest both in the nude and in nature; the former is exemplified in

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the series of pictures he took of his wife, the painter Georgia O'Keefe, the latter in *Equivalents*, the series of shots of clouds that he made at his country estate near Lake George.

The differences may have been simply a matter of temperament, or may have had something to do with socioeconomic background. In either case, Stieglitz's example was not so much emulated as defied. The movement away from his brand of refined aesthetics was recently well captured by the photographer William Klein, who first made his reputation in the 1950's with the publication of *Life Is Good and Good for You in New York: Trance Witness Reveals*. Interviewed last year on the occasion of the book's reissuance—two exhibitions of his work were held simultaneously—Klein wisecracked: "There are two kinds of photography, Jewish photography and goyish photography. If you look at modern photography, you find, on the one hand, the Weegees, the Diane Arbuses, the Robert Franks—funky photographs. And then you have the people who go out in the woods. Ansel Adams, Weston."

STIEGLITZ WAS nobody's idea of funky. His protégé Paul Strand, however, produced work with enough elements of edginess to be included in Klein's aphoristic definition. Born Paul Stranzky on the Upper West Side of Manhattan in 1890, he was taught photography at the Ethical Culture School by the great social documentarian Lewis Hine. At the same time he was imbued with attitudes that would take him ever more leftward, until politics vitiated his art.

Strand's early photograph *Blind Woman* (1917) had an enormous impact. The picture is a close-up portrait of a woman wearing a peddler's license and a placard that says, "BLIND." One eye is mostly shut and cloudy, the other open but wandering to the side; the grim, oval face is framed by a black shawl and backed by massive granite building blocks. *Blind Woman* is without pity in its scrutiny, but that very absence of sentimentality is what made it modern and made it effective.

In later years Strand taught at the Photo League, an important training ground in the 1930's and 1940's for a large number of photographers. Many who studied and taught there came to be identified with what critics came to call the New York School. This group exercised a sustained influence on many branches of photography—photojournalism, art photography, fashion photography, and portraiture. Its members changed the way Americans looked at their country and at themselves. Although each photographer had his own idiosyncrasies and his own favored subject matter, certain shared tendencies made it reasonable to refer to them as a school.

There was, first of all, an obsession with gritty realism, which frequently meant pictures that were blurred or grainy or slightly out of focus. The rules of formal composition were often violated, even flouted. And there was something tough, occasionally brutal in the work of the New York School: pictures might be beautiful, but they were never merely pretty.

The final thing New York School photographers had in common was that nearly all of them were Jewish—thirteen of the sixteen selected for inclusion in Jane Livingston's standard text, *The New York School: Photographs 1936-1963* (1992): Sid Grossman, Lisette Model, Helen Levitt, William Klein, Weegee (Arthur Felig), Robert Frank, Louis Faurer, Ted Croner, Saul Leiter, Leon Levinstein, Bruce Davidson, Diane Arbus, and Richard Avedon.

This is not to mention influential Jewish photographers of the time who were not associated with the New York School: Ben Shahn and Arthur Rothstein, for example, who worked for the New Deal's Farm Security Administration along with (the non-Jews) Dorothea Lange and Walker Evans; Joe Rosenthal, who took the picture of the Marines raising the U.S. flag on Mt. Suribachi during the battle for Iwo Jima, the single most reproduced photograph ever; Leonard Freed and Dan Wiener, who covered the violent confrontations of the early civil-rights movement; Irving Penn, Milton Greene, and Arnold Newman, famous for their fashion and celebrity photography; sports photographer Nat Fein, who took the famous picture from behind of Babe Ruth leaning on his bat at his farewell appearance at Yankee Stadium; Ezra Stoller, the country's preeminent architectural photographer; and Ben Ross, born Rosenblatt, who was the best known aviation photographer in the post-World War II era.

In *The Tumultuous Fifties: A View from the New York Times Photo Archives* (2001), there is a picture of the twelve men who were the newspaper's staff photographers in November 1951. To judge by their names, at least half were Jewish, and Jews were similarly overrepresented on the staffs of many other publications. At *Life*, for example, the first cover was by Margaret Bourke-White, and the most covers—101—were by Phillipe Halsman; *Life* employed Alfred Eisenstaedt, Carl Mydans, Robert Capa, and many more.

The list goes on through the decades. Today it would include Annie Liebovitz and Mary Ellen Mark, Jeff Mermelstein and Joel Meyerowitz, Joel Sternfeld and Cindy Sherman and Michael Ackerman.

IN CONTEMPLATING the overwhelming presence of Jews among those represented in *New York: Capital of Photography*, the critic Richard Woodward remarked that "the Jewish imprint on 20th-century photography . . . would seem to be too remarkable and contentious a topic to be ignored by scholars much longer." I agree. Before the scholars

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arrive, though, let me take a stab at it by offering something less than a full-fledged etiology but, I hope, more than just a list of pertinent contributing factors.

Among those factors, Woodward is certainly right to observe that most of the Jewish photographers now considered important worked in commercial areas, especially photojournalism, advertising, and fashion. In other words, they had to earn a living, and found they could do so with a camera: it takes very little capital to set up shop as a photographer.

The commercial habits absorbed by these photographers stood many of them in good stead in their later careers. Most of the work in Richard Avedon's recent show—which confirms both the talent that made him famous and its limitations—was done on assignment. Weegee is remembered for the work he produced on the job as a news photographer. Bruce Davidson supports himself by shooting advertisements so that he can pursue the projects for which he is best known.

Of course, other impoverished immigrant groups—Irish, Italian, Hungarian—could have followed the same route upward, but did not. Here is where another element enters in: the tendency of Jews in the last century to be drawn to activities exploiting brand-new technologies. These included not just photography but also the movies, records, radio, and television. What attracted Jews to such new arts (or businesses) may have been the absence of a social structure functioning to keep them *out*. The territory was open to whoever got there first, and whoever got there first was also free to define the territory's boundaries, including its boundaries of taste.

Jews have also tended to be drawn to artistic genres that examine society as opposed to those defined by more formal or abstract considerations; they have been more successful at writing plays and novels than at lyric poetry. Within photography, and leaving aside Stieglitz and one or two others, they have pursued human-interest subjects, frequently concentrating on areas with a strong political, ideological, or news value.

Jews have also leaned toward arts with mass audiences—a natural correlative of their tropism toward the new technologies that made such mass audiences possible. Photography may not have been as classy a pursuit as painting on canvas, but its products got to be seen everywhere, by everybody. It was an art form that affected public opinion, changed perceptions, and could, it was hoped by some, change attitudes as well. And it was nonverbal, an advantage for those otherwise disqualified from the opinion-molding professions by an immigrant accent or a less than perfect command of English.

FOR MOST Jews in the late 19th and early 20th centuries, photography itself was hardly something unknown or "foreign." In both Western and Eastern Europe, photographs were exchanged as a means of maintaining ties with distant family members, and portraits of famous or revered personalities adorned many Jewish homes, including the most pious. Photography had been absorbed into Jewish culture, both high and low, and fully legitimized.

Nevertheless, Max Kozloff rightly notes a peculiarity about the Jewish photographers whose work dominates his *New York: Capital of Photography*: with few minor exceptions, they "did not depict other Jews." In this, they were like many other second- and third-generation American Jews, eager to escape what they perceived to be a confining ethnic ghetto and more than willing to jettison whatever religious baggage they had inherited. Photography, for them, was a way *out* of a parochial Jewish environment into what seemed to be larger, more universal, worlds of art and politics. Kozloff refers to them as "humanists," but that is a pallid epithet for the strong and often very particular passions that were at play.

A brief interchange ten years ago did much to fix my own understanding of the orientation of Jews in photography in the 20th century. I had organized a colloquy on the subject, and at one point in the discussion I asked, "Why was it that of all the ethnic groups in New York City in the 1930's and 1940's, it was the Jews who took it into their heads to go to Harlem and photograph the blacks there?" Naomi Rosenblum, a teacher and the author of *A World History of Photography*, promptly replied, "We weren't Jews; we were leftists."

Rosenblum is a reliable informant. During those decades, her husband Walter was involved with the Photo League, some of the time as its president. The League, whose membership was overwhelmingly Jewish, championed documentary photography with explicit social and political objectives, and frequently sponsored projects in Harlem. In 1947, U.S. Attorney General Tom Clark included the League on a list of "totalitarian, fascist, Communist, or subversive" organizations. Although many contemporary photographers of stature—from Ansel Adams to W. Eugene Smith to Dorothy Lange—came to its defense, the blacklisting led to the League's dissolution in the 1950's. Whether or not the League was actually a Communist-front organization is unclear to this day, but it was certainly left-wing, and many of its members, including the charismatic Sid Grossman, were certainly Communists.

Leftism provided these Jews with a way of seeing. They could photograph blacks, and migrants, and derelicts, and gangsters, the dispossessed and the homeless, because they had a social framework in which these subjects could be understood. The same framework could be applied to their shots of the high and mighty, the celebrities, the successes of commerce and pol-

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itics and popular entertainment. But, however the vestiges of their religion may have disposed them to have sympathy for the downtrodden, they had nothing to say about their own. They wished to be invisible to themselves as Jews or, at any rate, not to use their art to make their presence as Jews known to others. ("We weren't Jews; we were leftists.") There was no counterpart among them to, say, Roy De Carava, who throughout his career has photographed blacks in domestic settings with charm and affection.

AN INTERESTING turn in the last decade or so, however, is that a number of talented Jewish photographers have committed themselves to long-term projects of Jewish content. The dean of them is probably Bill Aron, whose book, *From the Corners of the Earth* (1986), contains many beautiful images of Jewish ritual practice. Lori Grinker, an award-winning combat photographer, has taken time out to produce *The Invisible Thread: A Portrait of Jewish-American Women* (1989), and Joan Roth has traveled around the world working on a similar project. Penny Diane Wolin combines vintage photographs with her own work in *The Jews of Wyoming: Fringe of Diaspora* (2000). A few years ago, an exhibit by Yves Mozesio, *Varieties of Religious Experience: Photographs of Jews at Work*, offered portraits of observant Jews taken where they earn their livelihoods, with comments by them on how their faith affects the way they do their jobs.

There are other, comparable projects, and more appearing all the time. An important figure in the movement is Neil Folberg, who grew up in San Francisco, studied photography with Ansel Adams, became a "returnee" to Judaism, and now lives in Jerusalem where he runs the country's only gallery devoted exclusively to photography. Like his teacher, Folberg uses a large-format camera and is able to imbue images of buildings and landscapes with great spiritual depth. In public lectures on *And I Shall Dwell Among Them* (2001), his book of pictures of synagogues, he has cited the Torah and Talmud and later rabbinic authorities in formulating what amounts to an aesthetic grounded in Jewish learning.

The new interest in Judaism on the part of Jewish photographers has echoes in other arts: the novels of Allegra Goodman, the music of Daniel Asia, the paintings of Tobi Kahn. Perhaps needless to say, it does not automatically translate into superior work. *Shekhina*, the exhibit by Leonard Nimoy, best known as *Star Trek*'s Mr. Spock, that has been on display in the Skirball Museum of Hebrew Union College in New York, has pictures of naked women wrapped in prayer shawls and phylacteries. The work, we are told, draws on kabbala, but it has less in common with Judaism than with New Age spirituality, which is to authentic religion what kitsch is to real art.

In her book *The Particulars of Rapture: Reflections on Exodus* (2001), the contemporary biblical exegete Aviva Zornberg suggests that what lies at the heart of artistic creation—Zornberg's immediate subject is the building of the tabernacle in the desert, as described in the book of Exodus—is "a sustained concern with time and memory, a fascination with both the timeless moment of full presence and the subtle gifts of temporality and process." That phrase, "the timeless moment of full presence," has its own mystical tinge to it, but to me it also sounds like what great photographers try to capture in their work. That Jewish artists, photographers among them, should be looking to their tradition for inspiration and usable structures is a development of some significance.

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Music

Jazz as Modern Art

Terry Teachout

Is jazz "modern," in the way we think of Arnold Schoenberg's song cycle *Pierrot lunaire* (1912), or Pablo Picasso's *Demoiselles d'Avignon* (1907), as quintessentially modern?

To the limited extent that this question has been given serious critical consideration, the answer has tended to be yes. Many modernist composers, among them Igor Stravinsky, Aaron Copland, Darius Milhaud, Maurice Ravel, and Kurt Weill (although not Schoenberg), were influenced to varying degrees by jazz. The critic-composer Constant Lambert devoted an entire chapter of *Music Ho!*, his 1934 survey of musical modernism, to "the spirit of jazz." And some highbrow observers have even taken jazz to be one of the standard-bearers of modernity in the arts in general. As early as 1921, the influential critic Clive Bell was referring to such major modernists as Picasso in painting, Stravinsky in music, and T.S. Eliot in poetry as members of the "jazz movement."

Interestingly enough, however, there has been no systematic discussion of jazz as a branch of artistic modernism, and jazz's own "modernity" has for all intents and purposes been taken for granted. Hence the significance of *Jazz Modernism: From Ellington and Armstrong to Matisse and Joyce*, in which Alfred Appel, Jr., a professor emeritus of English at Northwestern University, argues that "classic jazz (1920-50)—especially [as represented by] Louis Armstrong, Duke Ellington, Fats Waller, Billie Holiday, Jack Teagarden, and Charlie Parker"—is indeed part of "the great modernist tradition in the arts."[1]

Hitherto known mainly for his writings on Vladimir Nabokov, Appel is a highly knowledgeable connoisseur of jazz and the visual arts. *Jazz Modernism* is a somewhat idiosyncratic work, both in its richly allusive style and in some of its terminology. Still, it is to the best of my knowledge the first sustained attempt by any critic, musical or otherwise, to locate jazz in the larger context of modernism.

To sum up a complex argument as briefly as possible: Appel believes that if modernism itself is to survive as an idiom of continuing interest, it will only be through the work of those artists who sought to be "accessible" and "tonic" rather than inaccessibly abstruse and hermetic, who drew their inspiration from vernacular culture, and who endeavored to speak not merely to the "insular, marginalized" world of "enthusiastic fans" but to a popular audience. Among such artists he numbers writers like F. Scott Fitzgerald and Ernest Hemingway and painters like Picasso (in the "synthetic cubism" of his post-1925 work) and Henri Matisse. Above all, Appel includes in his list the major jazz musicians of the 20's, 30's, and 40's whose work he takes to be paradigmatic of the accessible modernism he has in mind.

How should such artists be defined? In Appel's words,

> To call Armstrong, Waller, *et al.*, "modernists" is to appreciate their procedures as alchemists of the vernacular who have "jazzed" the ordinary and given it new life. . . . But "modernist" is too broad and loose a term, in-

Terry Teachout, Commentary's *regular music critic, is the author of* The Skeptic: A Life of H. L. Mencken, *just out from HarperCollins.*

[1] Knopf, 283 pp., $35.00.

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cluding as it does T.S. Eliot and Wallace Stevens, among others, who . . . used vernacular lingo to connote vulgarity.

Instead, taking his inspiration from Matisse, who gave the title *Jazz* to his great 1947 folio of prints, Appel has coined the term "jazz modernism." This, in his opinion, is the label that best fits the form of modernism that deserves to survive:

> *Jazz* as a title at once telegraphs a stalwart attitude, constitutes a synonym for "vitality" and "vernacular" . . . and informs a helpful new generic term. The forms of "Jazz Modernism" may approach abstraction, as in [Matisse's] *Jazz*, but the titles affixed to the pictures by the artist should make them accessible, as Matisse's do—a necessity if the art, literature, and music in question are to have a life beyond the classroom and required reading list.

Rarely if ever has a nonmusician written about jazz so intelligently as does Appel in *Jazz Modernism*, and rarely has any musically trained critic brought to the study of jazz so wide a frame of cultural reference. Whether or not he has succeeded in rewriting the history of modernism—which appears to be his ambitious goal—he has certainly made a compelling case for treating what one might call "Armstrong-era" jazz as a species of modern music.

BUT FOR all the panache with which Appel equates Louis Armstrong and Henri Matisse, readers of *Jazz Modernism* who are conversant with the history of jazz as well as with the School of Paris are likely to feel certain nagging doubts about his blanket use of the term "modern," however qualified, to describe pre-1950 jazz itself.

For one thing, Armstrong and his contemporaries, however "modern" their music may have sounded at the time, had none of the habits of mind normally attributed to modernist artists. Not only were they sketchily educated men who were in no way introspective about their art, but few of them would even have gone so far as to call themselves artists (Armstrong preferred the word "entertainer"). For them, jazz was not a critique of existing musical styles but a utilitarian accompaniment to social dancing, which they played to the best of their ability. And while some jazz musicians of the 20's and 30's, most notably the white instrumentalists associated with the cornetist Bix Beiderbecke, listened to and were influenced by the music of modern composers like Debussy, Ravel, and Stravinsky, most of them knew little else—if even that much—about the modern movement in art.[2]

Jazz musicians themselves never use the term "modern" when speaking of Armstrong-era jazz. Instead, they reserve that term for bebop, the harmonically and rhythmically complex style of jazz associated with the alto saxophonist Charlie Parker and the trumpet player Dizzy Gillespie, as well as for later styles descending from or otherwise related to the Parker-Gillespie idiom. These include the "cool jazz" played in the 50's by groups like the Modern Jazz Quartet and the Dave Brubeck Quartet (whose pianist-leader studied with Milhaud).

Significantly, Armstrong himself used the word "modern" to describe bebop in a *pejorative* sense:

> So you get all them weird chords which don't mean nothing, and first people get curious about it just because it's new, but soon they get tired of it because it's really no good and you got no melody to remember and no beat to dance to. So they're all poor again and nobody is working, and that's what that modern malice done for you.

To this, Dizzy Gillespie replied in turn:

> Nowadays, we try to work out different rhythms and things that they didn't think about when Louis Armstrong blew. In his day all he did was play strictly from the soul—just strictly from his heart. You got to go forward and progress. We study.

A REVEALING echo of this exchange—and of the contradictory attitudes it reveals toward the very idea of the "modern"—can be heard in a 1968 essay about jazz by the great English poet Philip Larkin. Larkin loved Armstrong-era jazz, and would later describe Armstrong himself as "an enormously important cultural figure in our century." But once he began listening to and reading about bebop, Larkin soon detected that belief in "progress" and necessity for "study" of which Gillespie spoke. In contrast to Gillespie, however, he took these to be signs not of progress but of decadence:

> This was the language of criticism of modern painting, modern poetry, modern music. *Of course!* How glibly I had talked of modern jazz, without realizing the force of the adjective: this was *modern* jazz, and Parker was a modern jazz player just as Picasso was a modern painter and [Ezra] Pound a modern poet. . . . I went back to my books: "After Parker, you had to be something of a musician to follow the best jazz of the day." Of course! After Picasso! After Pound! There could hardly have been a conciser summary of what I don't believe about art.[3]

[2] Beiderbecke is said to have known who Marcel Proust was, and the drummer Dave Tough appears to have had a not-inconsiderable awareness and appreciation of modern art and literature, but it is not until the 40's that one begins to encounter anecdotal evidence suggesting that many other jazz musicians were taking more than a casual interest in nonmusical modernism. Among other things, as Appel reminds us, the Chicago-style jazz drummer George Wettling studied painting with the jazz-influenced American modernist Stuart Davis.

[3] The quotation to which Larkin refers is from Benny Green's *The Reluctant Art: Five Studies in the Growth of Jazz* (1962, rev. 1991).

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What was Larkin getting at here? As a poet, he himself was the very model of what Appel calls a jazz modernist—that is, an "alchemist of the vernacular" who wrote about the problems and preoccupations of modern life both in an unmistakably "modern" way and in a way that was at the same time perfectly accessible. As such, however, he would have repudiated Appel's claim that the music of Parker and Gillespie is cut from the same cloth as that of Armstrong and Ellington; the latter, for Larkin, were "modern" in a good sense, the former in a bad sense. Still, he would no doubt have been interested to learn that Appel, too, draws a line beyond which jazz modernism devolves into something hermetic and inaccessible. The difference is that Appel draws it a decade later than Larkin—in 1950, not 1940.

According to Appel, Parker, Gillespie, and the other beboppers were true jazz modernists, whose music was at least potentially intelligible to a popular audience. Not so the more difficult bop-era pianist Thelonious Monk (who was "unconcerned about accessibility") or any of the post-bop avant-gardists like the tenor saxophonist John Coltrane who began to dominate modern jazz in the late 50's:

> This jazz new wave eschewed the salient characteristics of 1920-1950 classic jazz: accessibility; humor; a capacity for joy; the Great (white) American Songbook, the backbone of jazz multiculturalism (music by Gershwin, Berlin, Rodgers, Cole Porter, Jerome Kern, Harold Arlen, Vincent Youmans, Hoagy Carmichael, Arthur Schwartz, Vernon Duke, Harry Warren); and the goals and ideals of racial integration.

Is it true, however, that post-1950 modern jazz lacks the accessibility that Appel regards as intrinsic to "jazz modernism"? Or, to put it another way, who is right, Appel or Larkin—or neither?

To answer this question, one might do well to consider the work of a musician mentioned favorably but only in passing in *Jazz Modernism*. This is the trumpeter Miles Davis, who as it happens is the subject of a new biography by John Szwed, *So What: The Life of Miles Davis*.[4]

This book, the first biography of Davis to be based fully on primary sources, provides a reliable account of his life but is less interesting when discussing his music (a failing it shares with the vast majority of recent jazz biographies). In addition, Szwed makes little or no effort to place Davis in the larger context of 20th-century art, which is especially unfortunate given the fact that Davis is a true jazz modernist—that is, one to whom the term can be applied both in its conventional sense and in the specific way that Alfred Appel, Jr., uses it in *Jazz Modernism*.

Davis was one of the leading stylistic innovators of modern jazz. In 1949, he led a nine-piece band whose members (among them the arranger Gil Evans, the alto saxophonist Lee Konitz, the pianist John Lewis, and the baritone saxophonist Gerry Mulligan) collectively invented cool jazz. At the end of the 50's, working in tandem with Coltrane and the pianist Bill Evans, he introduced "modal improvisation," a technique of improvising on scales rather than on chordal patterns that was embraced by virtually all post-bop jazz musicians. Starting in 1968, he played a pivotal role in the blending of jazz and rock that came to be known as "fusion." Yet he was at the same time a truly *popular* artist, one whose records continue to be bought by people who know little of jazz save that Miles Davis played it.[5]

Unlike any of the major jazz musicians who came before him, Davis received high-level classical training. He studied in 1944 and 1945 at New York's Juilliard School, taking trumpet lessons from William Vacchiano, then the New York Philharmonic's principal trumpeter. And while his knowledge of other art forms appears to have been limited, it is clear from Szwed's book that he *thought* like a modernist, seeking artistic renewal by constantly changing the musical settings in which he displayed his distinctive trumpet playing. ("I have to change, it's like a curse," he once remarked.)

Interestingly, some of Davis's innovations were analogous to those of the modernist painters who were his contemporaries. Lacking the extreme technical development of Charlie Parker, with whose quintet he played in the late 40's, Davis instead systematically pared down the "maximalist" language of bebop to create a new style full of wide-open harmonic spaces that allowed players to improvise more freely and flexibly—an approach reminiscent of the way in which such color-oriented abstract expressionists of the 50's as Mark Rothko and Helen Frankenthaler sought to develop a less spatially congested alternative to the canvas-crowding "all-over" abstraction of Jackson Pollock.

At the same time, Davis's repertoire, both on record and in live performance, included such familiar standards as Richard Rodgers' "My Funny Valentine" and George Gershwin's "Summertime," which he played in the same spare, uncluttered manner as his versions of jazz originals like Thelonious Monk's "'Round Midnight" and his own "So What." This made it possible for Davis to stay in the vanguard of stylistic innovation while simultaneously remaining intelligible to a popular audience.

What this brief account suggests is that it is not *quite* so easy as Alfred Appel suggests to point to where "jazz modernism" stops and

[4] Simon & Schuster, 488 pp., $28.00.

[5] For readers unfamiliar with Davis's work, *The Essential Miles Davis* (Columbia/Legacy C2K 85475, two CD's) is a concise but wide-ranging sampler containing representative recordings made between 1945 and 1986, including all the performances mentioned in this essay.

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"modern jazz" begins. Nevertheless, by considering jazz as a manifestation of the larger modernist project, he does succeed brilliantly in differentiating the "jazz modernism" of Armstrong and Parker (and, in my view, Miles Davis and most of the other key figures of 50's jazz) from the hermetic modernism of the later avant-garde jazz of the 60's and 70's, in much the same way that one might distinguish Stravinsky from Schoenberg, or Philip Larkin from Ezra Pound.

As Appel understands—and as I have written elsewhere—such distinctions are crucial to understanding the fundamental problem of modernism. In fact, there are *two* modernisms, one deeply conservative and tradition-based, the other profoundly radical and antinomian.[6] And while I am not entirely persuaded that the term "jazz modernism" is sufficiently wide-ranging in its implications to describe the first kind, I think Appel is entirely right to say that a wholly inward-looking modernism, one altogether divorced from the energizing impact of vernacular culture, was doomed from the outset to ultimate failure.

Furthermore, *Jazz Modernism* serves as an invaluable reminder that the artist who consciously strives to make his work accessible to a popular audience is not by definition unserious. On the contrary, he is fulfilling the necessary precondition of intelligibility: he is trying, quite literally, to make sense. That is the reason why so few people now read Ezra Pound or listen to Schoenberg's *Pierrot lunaire*—and why so many still listen to Louis Armstrong and Miles Davis.

[6] For a discussion of the problem of modernism in 20th-century classical music, see, for example, my essay "The New Tonalists" (COMMENTARY, December 1997).

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Books in Review

The Pox

The Demon in the Freezer:
A True Story
by Richard Preston
Random House. 240 pp. $24.95

Reviewed by
Kevin Shapiro

> Take to you handfuls of soot of the furnace, and let Moses throw it heavenward in the sight of Pharaoh; and it shall become fine dust over all the land of Egypt, and shall be a boil breaking forth with blains upon man and upon beast, throughout the land of Egypt. [Exodus 9:8-9]

WHATEVER ONE'S views on the historicity of the biblical plagues, it is remarkable how closely this passage resembles a description of modern biological warfare. A handful of smallpox virions, each about the size of a particle of soot, contains enough pestilent material to infect millions of people. Released at a high enough altitude, a cloud of such viral dust might spread invisibly for 50 miles or more. Anyone who breathes in as few as a half-dozen grains could become symptomatic in a fortnight, breaking out with blisters and sores or with bleeding skin. Within another week, depending on the form of the disease, such a person would stand about a one-in-three chance of dying. In the meantime, the same person would transmit the contagion to three, five, or twenty others. In a month, absent effective controls, a plague of smallpox could easily spread "throughout the land."

Probably one of the chief reasons this horrific scenario has not yet come to pass is that smallpox virions, unlike furnace soot, have been hard to come by since the disease was eradicated from nature in 1979. Officially, there is not enough smallpox left in the world to do any large-scale harm. The only internationally recognized samples reside today in two freezers: one at the Centers for Disease Control (CDC) in Atlanta, Georgia, the other at a Russian research center in Siberia called Vector. World Health Organization (WHO) rules forbid any other laboratory from possessing more than a tenth of the virus's DNA. In theory, then, the probability of another human case of smallpox—let alone a plague—is virtually nil.

Nevertheless, as Richard Preston demonstrates in *The Demon in the Freezer*, the reality is somewhat more chilling. In the 1990's, United Nations inspectors in Iraq uncovered evidence of a robust biological-weapons program—evidence including, among other things, laboratory equipment labeled "smallpox." According to high-level defectors from the Soviet Union, that now-defunct dictatorship also manufactured smallpox by the ton, and many of the mobile containment units in which this smallpox was stored remain unaccounted for. The demon, in other words, is out of the freezer, and it may be only a matter of time before it is loosed again.

MUCH OF this book's narrative is told from the viewpoint of an insider at the U.S. Army Medical Research Institute of Infectious Disease (USAMRIID) at Fort Detrick, Maryland. The staff of that government

KEVIN SHAPIRO, *a researcher in neuroscience at Harvard, reviewed Steven Pinker's* The Blank Slate *in last month's* COMMENTARY.

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agency had to cope with the anthrax threat of 2001; for several years, however, it has also been preparing for the potentially even more frightening threat of smallpox. But USAMRIID is only part of Preston's story. *The Demon in the Freezer* is peopled by a lively cast of characters, ranging from dyspeptic Soviet virologists to single-minded Hindu mystics, many of whom were involved either in the triumphant eradication of smallpox or in its terrifying rebirth as a weapon of mass destruction. Some of the characters, like Peter Jahrling of USAMRIID, come across as Hollywood heroes. Others, like the British-educated Iraqi biologist Hazem Ali, bear a distinctly villainous taint. (Evidently lying through his teeth, Ali protested to UN inspectors that he had been working on the innocuous camelpox virus.)

The Demon in the Freezer also describes, in fascinating and horrifying detail, exactly what smallpox is and what it does. Among its gruesome manifestations, Preston delineates garden-variety smallpox, in which the patient breaks out into blisters; confluent-type ordinary smallpox, in which the blisters merge into sheets of pus; and hemorrhagic smallpox, or "black pox," which is almost always fatal and in which the skin bleeds and darkens and the whites of the eyes turn red.

As for the danger still posed by the disease, that is palpable in Preston's sickeningly vivid description of the rapidity with which a single infection can blossom into an outbreak. In December 1969, a traveler returned to Meschede, Germany, from Bangladesh with an incubating case of smallpox. At the first sign of fever, he was placed in a private room in an isolation ward; as soon as the cause was determined to be smallpox, the WHO stepped in, shipping thousands of doses of vaccine and organizing a mass vaccination campaign virtually overnight. Nevertheless, nineteen more people were infected, four of whom died, and the toll would undoubtedly have run much higher but for the quick action of local medical authorities and the WHO.

That happened over three decades ago. If such an outbreak were to occur in an urban area today, it is not certain that enough vaccine could be produced quickly enough to contain it. Much of the world's vaccine stock was destroyed in 1990 to save on refrigeration costs. More ominously still, research with animal-pox viruses suggests that it is potentially very simple to produce a strain of smallpox that is both extremely virulent and resistant to standard vaccines.

Our hope, Preston concludes, lies in the ongoing effort to produce biological counter-agents by working with the live virus. But such research is controversial. The WHO voted in January 1999 to destroy the last remaining (legal) stocks of the smallpox virus—the samples at the CDC and in Siberia—by July of that year; although the deadline has since been extended, the agency is anxious to finish the job, even if that means an end to vaccine research. D.A. Henderson, the physician who spearheaded the WHO's smallpox-elimination program, believes (according to Preston) that an effective vaccine will never be developed using an animal model. Although he may turn out to be right, Preston's account of the breathless effort by CDC and USAMRIID scientists to develop a model of smallpox in monkeys is a powerful suggestion of the progress that could be made by pressing forward.

FOR BETTER or for worse, Preston studiously avoids the harder questions: what steps could be taken to minimize the impact of a biological attack? If stocks of vaccine were not a problem, what would be the pros and cons of widespread vaccination? How might we counter the potential use of genetically engineered, vaccine-resistant strains? Is it wise for the United States to continue its 30-year-old moratorium on biological-weapons research, in light of the fact that other nations are evidently pursuing such weapons at full tilt?

To say the least, these issues are controversial, and Preston—who, after all, is neither a virologist nor an epidemiologist nor a politician but a professional writer with a doctorate in English—can hardly be faulted for leaving policy debates to the experts. But it is clear that they urgently demand answers.

It is no less clear that we cannot afford to hesitate in acting against rogue states known to possess biological weapons. Although much has been made of the suspicion that Iraq may be trying to acquire nuclear weapons, comparatively little attention has focused on its acknowledged biological and chemical programs—even though, compared with nuclear weapons, virus-weapons development is relatively cheap and easy to disguise or conceal.

On a similar note, *The Demon in the Freezer* should give pause to those who believe that any threat can be defeated by international good will. The 1972 Biological Weapons and Toxin Convention is a case in point. Signed by 144 nations, the treaty forbids the development, possession, or use of offensive biological weapons. Yet there is good reason to believe that numerous signatories have flouted the convention by pursuing research into agents like smallpox. These include not only manifestly untrustworthy states like Iraq and North Korea but also Russia, India, China, Taiwan, and supposedly enlightened France. (France denies the charge; but then, so does Iraq.) What is needed, clearly, is not more good will but a more effective international regime for policing and punishing bioweapons development, along the lines proposed by the Bush administration in November 2001.

I DO not mean to overstate Preston's accomplishment, especially in literary terms. His prose, while crisp and eminently readable, can be too terse and formulaic; his attempts at in-

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jecting "human interest" into the narrative sometimes fall flat, and his occasional efforts at profundity are embarrassing ("the hand is a symbol of humanity, part of what makes us human"). But such faults should not be allowed to distract from his book's central message, which is that biological warfare is not only a real danger but one that we are not adequately prepared to handle.

A single case of smallpox infection, arising by accident or act of terrorism, would engender an instant public-health crisis. Even if a rapid vaccination program could be coordinated, it could be rendered effectively useless by a genetically engineered virus. If a terrorist got hold of such a virus, the potential damage is almost unimaginable. Preston's book is a kind of wake-up call to a world that has largely forgotten how much havoc the smallpox demon can wreak.

Moral Reckoning

The Good, the Bad & the Difference: How to Tell Right from Wrong in Everyday Situations
by Randy Cohen
Doubleday. 277 pp. $23.95

Reviewed by
Dan Seligman

There is no getting away from ethicists these days. The Nexis database points to 45 articles in the *Washington Post* alone over the past year wherein ethicists can be found pronouncing on such issues as assisted suicide, war with Iraq, and what a parish should do about a male minister who has undergone a sex-change operation. Scrolling through the articles on-screen, one observes that though the people

Dan Seligman *is a contributing editor of* Forbes.

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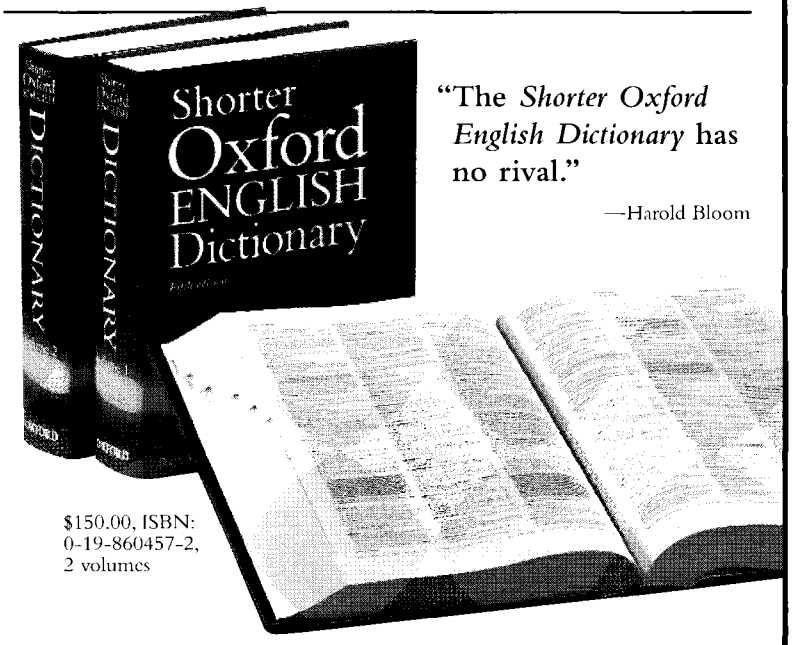

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identified as ethicists are often heavily credentialed academics, the propositions they bring to the table are rarely different from what has come to the minds of ordinary characters like you and me.

One also observes that ethicists usually have an agenda. Overwhelmingly clustered at the left end of the political spectrum, they tend to equate ethical behavior with left-liberal politics and political correctness. Thus 100 "Christian ethicists" recently signed a statement claiming that President Bush had made "no compelling moral case" for attacking Iraq. A report in the *Annals of Internal Medicine* tells us that medical ethicists object not just to the death penalty but to the assistance that doctors sometimes provide at executions by verifying death. So-called "animal ethicists" like Steve Wise of the Tufts School of Veterinary Medicine promote legal rights for chimpanzees and other primates. Even Wall Street has liberal ethicists, many of them peddling investments like the Domini Social Equity Fund; this looks for companies committed to affirmative action, while steering clear of cigarette and liquor stocks, casinos, polluters, utilities operating nuclear power plants, and companies that "earn significant revenues from weapons contracting." National defense, it would seem, is unethical.

PERHAPS OUR best known public ethicist nowadays is a totally noncredentialed individual named Randy Cohen. Since 1999, he has been writing a popular column called "The Ethicist," which appears regularly in the *New York Times Magazine* and is widely syndicated. Now we have his first collection, *The Good, the Bad & the Difference.*

The idea for an ethics column was thought up by the *Times* itself, which then went searching for a suitably entertaining writer and ended up with Cohen. In some measure, the column can be thought of as a hip, updated "Dear Abby." That is, it tells correspondents what is the right and proper thing to do when you accidentally dent a parked car, or when you come across your friend's husband smooching with a blonde.

Another similarity: like Abby, Randy often concludes by urging correspondents to seek counseling for themselves or others. And, in both columns, a familiar sign-off line is to recommend that one approach a person behaving badly and discuss things calmly but frankly. My own experience with each of these pieces of advice is that neither gets you anywhere.

"The Ethicist" is in some ways superior to "Dear Abby." For openers, Cohen is a better, wittier writer. A typical column will feature a couple of queries, followed by his verdict. In the book, these exchanges are organized by subject, with separate chapters devoted to "commercial life" (i.e., buying stuff), work life, social life, family life, school life, and civic life. This last-named is a somewhat amorphous, residual category that covers happenings on the subway, in the park, or when one is outdoors but not shopping. Unlike the weekly columns, the book includes a fair amount of back-and-forth with readers who have objected to Cohen's original judgments, plus occasional second thoughts by the ethicist.

Cohen's correspondents are obviously more upscale and better educated than the hapless housewives who tend to confide in "Dear Abby," and his often lengthy responses to their moral quandaries are plainly intended to be taken seriously—even though the author, once a television writer for David Letterman, not to mention Rosie O'Donnell, often turns funny before he is through pronouncing on a case. Responding to a collegian who plans to go for a Ph.D. in philosophy, suspects his earning power will be nil to limited, and therefore worries that it may be unethical to borrow money he will be unable to repay, Cohen cites an encouraging counterexample:

> While your eventual destitution seems likely, sadly, it's not something you can count on. Carleton Fiorina, recently named president and CEO of Hewlett-Packard, majored in medieval history and philosophy. Financial failure can be so elusive.

DESPITE THE wit, this reader found himself increasingly annoyed by Cohen's invincibly PC line, never a total surprise in the world of ethicists but in this case manifested at a more primitive level than one would expect even at the *Times.* Under this heading, it seems obligatory to cite a recent column—not in the book—that triggered an avalanche of protest from Jewish readers. Cohen's correspondent, a woman identified as "J.L., New York," had just hired a real-estate agent. Observing that he was "courteous and competent," she went on to complain that after their contract was signed, he had declined to shake her hand because, as an Orthodox Jew, he was forbidden to touch a woman to whom he was not related. J.L. averred that, while supporting "freedom of religious expression," she opposed sex discrimination of all sorts and wondered if she should just tear up the contract. Cohen's knee-jerk advice: yes, tear it up. "Sexism is sexism, even when motivated by religious convictions."

The book itself is a treasure trove of similar clichés. Readers are told that college students cheat more than they used to on college exams; the reason is . . . Ronald Reagan: "They grew up under a President who emphasized self-interest at the expense of community." Also, that it is ethically mandatory to take your little boy out of the homophobic Cub Scouts. Also, that race is a meaningless social construct, and that a man who says he is physically attracted to Asian women is a racist. Also, that there is a "darker meaning" in the custom of men opening doors for women—it is "deference as a form of social domination."

COHEN HAS done himself no favor by bringing his columns together in

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a book, since, especially when he wanders off the reservation of political correctness, he has a problem with consistency. In one place we observe him scolding a couple, both fifty-five years old, who make a practice of getting low-priced senior tickets at movie theaters that define "senior" as at least sixty-two. "I'm afraid that what you're doing is indeed unethical," Cohen writes. "You're going to the movies on tickets to which you're not entitled."

But in another place one notices a distinct change of attitude. Here a child complains that his father endlessly embarrasses him by buying the cheapest tickets to baseball games and then later, when the game starts, moving down to better, unoccupied seats. The kid asks if this is okay, and is presumably dismayed when Cohen answers in the affirmative. "Your dad's seat-hopping is more than okay: it is a time-honored baseball tradition. He hurts no one, and it would be foolish to let good seats go unused."

This particular dictum drew a raft of complaints from readers, one of whom cites the chaos that would result if everybody engaged in the practice of seat-hopping. Cohen's response begins: "To ask what would happen if everyone did it is not entirely helpful. First, because everyone will not do it." Here our ethicist seems to have momentarily forgotten that he himself often invokes the "what-if-everyone-did-it" argument, writing, for example, that even though stealing from a cable-TV company might not appear to be true theft, "if everyone stole cable, the company would go under. . . . Hence your obligation to pay your share of the service."

"Dear Abby" lacks Randy Cohen's panache—and, thankfully, his politics—but at least she knows that no self-respecting ethicist talks out of both sides of his mouth.

Uncertain Certitudes

Essential Essays on Judaism
by Eliezer Berkovits
edited by David Hazony
Shalem Press. 393 pp. $22.95

Reviewed by
Benjamin Balint

In the first months of 1939, a thirty-year-old Romanian-born rabbi, soon to gain prominence as a scholar and theologian, arrived in London with his young family. He came from Berlin, where he had earned his doctorate in philosophy with a dissertation on Hume and had studied at a renowned rabbinical seminary that combined loyalty to traditional Judaism with openness to secular learning.

Benjamin Balint, *the assistant editor of* Commentary, *has reviewed for* First Things, Judaism, *and* Tradition.

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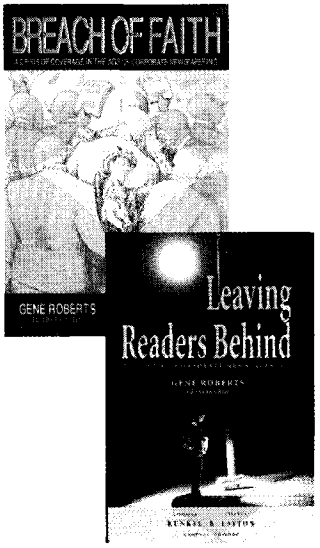

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Although Eliezer Berkovits had left his intellectual home, he brought his books with him. But the collection, too large to fit into his London apartment, had to be put into storage, and not long afterward it went up in flames, a casualty of the Nazis' wartime bombardment. For the rest of his life—as a pulpit rabbi in Leeds, Sydney, and Boston, as a professor at the Hebrew Theological College in Chicago from 1958 to 1975, and finally as a kind of religious éminence grise in Jerusalem—Berkovits wrote his own books, it seems, in an effort to recover what had been lost. There would be nineteen such books in all, thirteen in English and six in Hebrew or German.

Now, a decade after Berkovits's death, David Hazony—senior editor of *Azure*, a conservative journal of politics and religion based in Israel—has edited an anthology of his writings. It ranges with impressive erudition over topics like "The Biblical Idea of Justice," "The Encounter with the Divine," and "The Spiritual Crisis in Israel," but comes to rest on three main topics: halakha (Jewish religious law), Zionism, and the Holocaust. In the case of each of these subjects, Berkovits's distinctive style is to apply an exacting moral standard of judgment. The exercise, sustained over hundreds of pages, gives weight to Hazony's claim in his useful introduction that Berkovits "may prove to be the most significant Jewish moral theorist of the last generation." But Berkovits's uncompromisingly moral approach to Judaism can also produce quite unexpected results. For a thoroughly Orthodox thinker, writing largely for an Orthodox audience, he reveals an often surprising turn of mind, one whose inner tensions make him well worth reading by those not otherwise drawn to traditionalist forms of religious thought.

BERKOVITS IS most thoroughly in his métier in his writings on halakha. Here he strikes out in a direction very different from the one followed by exegetes and sages from Maimonides in the Middle Ages to Samson Raphael Hirsch in modern times. After firmly establishing the centrality of law in Jewish thought—"revelation and law are inseparable," Berkovits says, and "God's involvement in the world and His law for the world are one"—he proceeds to understand the essence of divine law not in its relation to human reason, which is the usual approach, but in its relation to morality.

That relation is not as close as it once was, Berkovits laments, and the reason has to do with the long Jewish sojourn in the Diaspora. Starting with the writing-down of the Mishna in the 2nd century C.E., and ending with the decimation in World War II of the vibrant European talmudic culture of which he himself was one of the last surviving remnants, the exigencies of exile transformed a living oral tradition into a far less supple written one. By gradually reducing a system of moral values to a set of fixed rules, this process brought about a calamitous "violation of the essence of halakha." "We have become Karaites of this new written Torah," Berkovits complains, invoking the ancient sect that took an extreme literalist approach to Scripture and rejected the oral law altogether.

In some respects, indeed, halakha can *impede* moral progress—or so Berkovits argues, honing this view into a sharp rebuke of those who take an excessively legalistic approach to Judaism and so embrace its rules too unthinkingly. As one who devoted two scholarly books to the morally problematic aspects of the halakhic treatment of women, Berkovits goes so far as to characterize this form of uncritical adherence to the law as "halakha in a straitjacket." But—and here his argument turns sharply dialectical—that hardly means he would take the side of those Jews, mainly Reform, who see halakha *only* as an obstacle to ethics, and so jettison it too readily. This second group he holds guilty of ignoring the "halakhic conscience": the overarching values that give Jewish law its shape and without which Judaism as a whole cannot be understood, let alone practiced.

MORAL CONSIDERATIONS likewise pervade Berkovits's reflections on the state of Israel, his second subject. It goes without saying that the Jewish state has, for him, immense religious significance: "without the return to Zion," he asserts, "Judaism and Jewish history become meaningless." This is so because the "breach between Torah and life," a byproduct of the same "exilic rigidity" whose pernicious effects he traces in relation to religious law, can only be healed in an environment of national autonomy. Recalling the biblical injunction to the Israelites to become a "holy nation," Berkovits rehearses the argument that Jews must have a state of their own in order to be able to set a moral example and to act, in Isaiah's famous phrase, as "a light unto the nations."

Nevertheless, in an essay written in 1943, five years before Israel's founding, Berkovits offered the striking and even renegade thought that, on at least one ground, Jews had reason to be grateful to their long period of exile. In their homelessness, and despite the terrible sufferings they endured, Jews were also spared the moral burdens of nationalism: "We have been oppressed, but we were not oppressors." And herein lay, as well, a warning for the future: if Zionism were not itself to slip into vulgar nationalism, it would have to avoid the worst, blood-and-soil aspects of European models of self-determination.

Lest one suppose that these ideas were but fleetingly held by a man seared by National Socialism, Hazony includes in this volume an essay from 1973 in which—his tone largely unchanged by the passage of

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three decades—Berkovits criticizes the way Zionism has in fact come to be practiced in Israel. There he argues instead for a new kind of Jewish nationalism, one based on ideals of religious fulfillment and on the realization of Jewish messianic dreams. Once again a morally flawed present is measured against the twin backdrops of a morally better past and a morally ideal future, and found wanting.

In his reflections on the Holocaust, many of these same threads converge in still another form. At the most terrible point of history—the nadir of Jewish exile and of human depravity alike—Berkovits finds solid reinforcement for his abiding doubt of the civilizing power of reason alone: the human being, he says repeatedly, "is not as easily led to goodness as humanism imagines." More particularly, the Holocaust also reinforces a deep disappointment with Christianity as a moral counterforce. In a passage (not included here) from one of his best-known books, *Faith After the Holocaust* (1973), Berkovits contends that, "without the contempt and the hatred for the Jew planted by Christianity in the hearts of the multitude of its followers, Nazism's crime against the Jewish people could never have even been conceived."

But against these radical disenchantments, and amid the overwhelming barbarity of Nazi Europe, Berkovits also urges upon his readers stirring examples of moral heroism on the part of the Jewish victims: acts of spiritual courage, self-sacrifice, simple goodness, and the sanctification of God's name. "In the camps and the ghettos," Berkovits observes, "man sank to his lowest level yet, but there too he was exalted to his highest dignity."

This book, rather slow-going and occasionally inaccessible to the general reader, is crowded with significant ideas. But it also leaves a num-

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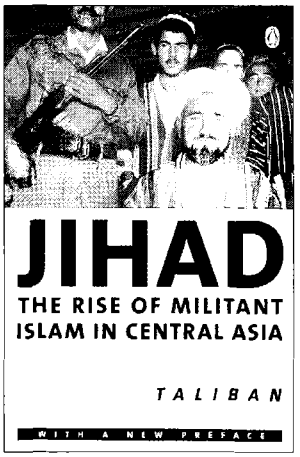

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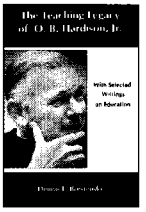

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ber of puzzles unaddressed. Perhaps the central one concerns Berkovits himself. Despite the Holocaust, he remained a man of faith; despite trenchant and thoroughgoing reservations concerning the direction of halakha, he remained an Orthodox Jew; despite his suspicion of political Zionism, he remained an unwavering Zionist. Why?

We look in vain in *Essential Essays on Judaism* for an answer to this question. "The religious thinker," Berkovits admits frankly, "starts out with a number of certitudes," and in these essays he speaks primarily to those who not only share these certitudes but do not see the need for a defense of them. Others, however, will inevitably want to know why, for example, if halakha has indeed "lost its evolutionary strength," Berkovits nevertheless insists on rejecting the Conservative and Reform movements in Judaism, which broke from Orthodoxy on precisely these grounds; or why, if "not every form of *eretz yisrael* [the land of Israel] is worth the trouble," he felt impelled to pick up and settle there at the age of sixty-seven.

Nor are these the only matters left unexplained in a collection that, even as it reveals previously unnoticed connections within Berkovits's thought, also exposes new inconsistencies. Take his treatment of exile: although it would seem by his lights to have had a disastrous effect on Jewish religious law, moving it far from the sources of its original vitality, exactly the opposite seems to have been the effect of exile on Jewish political life, which entered, he writes in one passage, "a greater, worthier period of our history than the time of our independence in the past." Is exile, then, to be lauded (as it famously had been, for instance, by the German-Jewish philosopher Franz Rosenzweig) or deplored?

There is of course something exceptionally admirable in the spectacle of an ardent Zionist who can be intensely critical of trends in modern Zionism, a learned halakhist acutely troubled by parts of contemporary Orthodoxy. Having dedicated himself with such purity to these two great engines of Jewish life, Berkovits cannot help demanding purity in return. From the same perspective, one can also appreciate the impulse behind David Hazony's desire to present this maverick figure as one who might bridge the all too evident fissures, both denominational and political, in today's Jewish world. But ours is a moment when some of the most fundamental questions of Jewish existence press themselves with fresh urgency upon Jews in both Israel and the Diaspora; there is something deeply frustrating about a thinker who leaves these questions not only unanswered but for the most part unasked.

Soft Rights

Democracy by Decree: What Happens When Courts Run Government
by Ross Sandler and David Schoenbrod
Yale. 274 pp. $30.00

Reviewed by
Jonathan Kay

Brown v. *Board of Education*, the 1954 U.S. Supreme Court decision that outlawed segregation in public schools, is among the most influential judgments in American history. Its impact went far beyond race, altering fundamentally the way Americans viewed the role of courts in a democratic society. The image of virtuous judges enforcing desegregation decrees against racist politicians and school boards was unforgettable. "Assertive judges and the civil-rights lawyers who appealed to them were the heroes of the day," write Ross Sandler and David Scho-

JONATHAN KAY *is editorials editor of the* National Post *of Toronto.*

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enbrod in *Democracy by Decree*. "From the death of Jim Crow, there was . . . born a revolutionary idea: that courts could and should reform state and local governments."

The *Brown* legacy changed Congress, too. During the battle over racial integration, the U.S. Department of Health, Education & Welfare threatened to cut federal funding to school districts that retained segregated facilities. National legislators quickly realized they could use the same financial threat to make states respect newly minted federal standards and rights in other areas—even in such traditional bastions of state authority as welfare, medical assistance, and highway construction.

In Sandler and Schoenbrod's telling, activist judges and ambitious legislators soon fell into an unhealthy symbiosis:

> Who would make sure that the governors and mayors delivered on the promises they gave to secure the federal money? Answer: the courts. [Congressmen] could have their cake and eat it, too. They could take credit for bestowing rights while lawyers and judges forced state and local officials to shoulder [the] higher taxes, tougher regulations, and service cuts needed to comply with the federal mandate.

The result was a gradual erosion of local democracy as city and state officials found themselves responding less to voters' needs than to Congress and the nearest federal courthouse.

The Clean Air Act provides a classic example of the post-*Brown* reality. This 1970 law loudly declared the right of every American to a smog-free environment—but quietly passed on the multi-billion-dollar price tag to states. Even better, from Washington's point of view, the law empowered ordinary people to sue for enforcement, thus further insulating Congress itself from political backlash. The game of creating expensive new rights—"soft rights," as Sandler and Scho-

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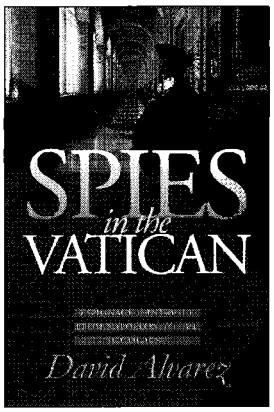

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enbrod call them—had become a can't-lose proposition. Soon enough, legislators were eagerly seeking attractive causes to sanctify: over the next three decades, Washington passed more than 60 major statutes regulating states and municipalities.

One of those statutes was the 1990 Americans with Disabilities Act (ADA), which entitled its beneficiaries to unimpeded access to any government service. In a move that shocked the country's mayors, Justice Department officials interpreted this law as requiring that by 1995 every sidewalk in the United States be retrofitted with wheelchair-friendly pedestrian ramps. Most cities missed the deadline and became sitting ducks for a lawsuit. In Philadelphia, a court ordered city officials to make 320,000 curb cuts for wheelchairs in just two years, at a projected cost of $180 million; the sum was greater than the city's entire capital budget.

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SIMILAR HORROR stories dot the pages of *Democracy by Decree*, but dominating the book is a single, detailed case study: the never-ending legal odyssey known as *Jose P.* v. *Ambach*.

Jose P. was a fifteen-year-old spastic, deaf, and mute boy who had recently moved from Puerto Rico to Manhattan. In 1978, his mother applied on his behalf to New York City's special-education program. But the department was backlogged—in the mid-70's, New York was teetering on the edge of bankruptcy—and months passed while Jose's application lay unprocessed. His family grew impatient. On February 1, 1979, a public-interest lawyer at Brooklyn Legal Services filed a complaint alleging that the delay constituted a violation of Jose's statutory rights under the Education for All Handicapped Children Act (EAHCA), passed by Congress in 1975 and guaranteeing all disabled children a "free, appropriate public education."

The endless cascade of negotiations, orders, and settlements spawned by *Jose P.* v. *Ambach* is too complex to summarize here. Indeed, one of the authors' main points is that this sort of litigation is so impenetrable as to be grasped only by the full-time activists who manipulate the process for their own purposes. In this particular case, the drama unfolds as a conflict between an idealized conception of "rights" and the reality of a city lacking the ability to pay for the army of psychologists, speech therapists, and specialized teachers required to make good on those rights.

The conflict is inherently irreconcilable, which is why the *Jose P.* litigation continues to this day, outlasting the judge overseeing the case, three New York City mayors, and eight school-system chancellors. Although Jose himself returned to Puerto Rico before finishing high school, the case bearing his name could in theory carry on in perpetuity.

If *Jose P.* had led to improvements in New York's school system, its two-decades-plus saga might be cast as a worthy struggle. But the evidence suggests that it has not. To function effectively, school administrators must have discretion to address changing needs and unexpected crises. But plaintiffs' lawyers have been more interested in cashing in their soft rights to establish rigid quotas, timetables, and budget targets for a discrete class of students. Write Sandler and Schoenbrod:

> *Jose P.* failed to produce sound special education because it was premised on a basic misunderstanding of institutional change—a fool's errand because special education could not be reformed without reforming the entire system. The upshot was a huge, gold-plated, dysfunctional cog in a rusty educational machine.

To add insult to injury, New York City was swindled in the process. When the EAHCA was being drafted, Congress announced it would fund 40 percent of the cost of special-education programs—provided that states agreed to follow federal standards. But once all 50 states had signed on, Washington reneged. Nationally, the federal contribution peaked at 12 percent in 1980, and has been declining ever since. In 2000, New York City received $70 million in federal special-education funds—less than 3 percent of the program's $2.6-billion cost. Theoretically, the city could walk away from this meager sum and forget about the EAHCA. But doing so would cause the entire state of New York to lose *all* its federal-education funding, not just the money earmarked for special students in New York City. Albany cannot afford that, and in any case, leaving even a small amount of federal money on the table can be political suicide for state politicians.

In the final chapter of *Democracy by Decree*, the authors present a strategy for avoiding pointless legal marathons of the *Jose P.* variety. When faced with a state or city in

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violation of an open-ended statutory mandate, they argue, judges should declare the violation—but eschew remedies for it. "The effect would be to remand the controversy to the political branches of government, which is exactly where it belongs," forcing the "necessary hard choices" on "the body that promulgated the impossible requirement." Following this model, the judge in *Jose P.* would simply have reported to Congress in 1980 or so that New York was out of compliance, and the burden would then have been on Congress (a) to give the city the money it needed to bring its special-education program up to federal grade, (b) to punish the city by cutting off its federal education funds, or (c) to do nothing. None of these is a perfect option, but at least the decision would lie with an elected, democratically accountable branch of government.

When *Brown* was decided in 1954, the only major cause-oriented groups of lawyers in existence were the NAACP Legal Defense Fund and the ACLU. Since then, dozens more have sprouted—including the Environmental Defense Fund, the Center for Law and Social Policy, the Children's Defense Fund, and the Natural Resources Defense Council. (Both of the authors of *Democracy by Decree* worked in the last-named agency in their younger days.) Over the decades, these groups have collectively become a de-facto fourth branch of government, extracting settlements from cities and states and redirecting billions of dollars worth of public funds in the process. But despite this, their activities rarely receive close scrutiny from the media, and few politicians dare take them on.

Thankfully, however, the soft rights on which these groups depend may soon be in decline. Under Chief Justice William Rehnquist, the Supreme Court has repeatedly invoked the 11th Amendment to protect states from private suits. On the legislative side, the Republican class of 1994 passed the Unfunded Mandates Reform Act, which makes it difficult—though not impossible—for Congress to pass the buck to states. With both the Senate and the House of Representatives in Republican control until 2004 at least, there may be a move to roll back soft rights still further.

Whatever the future holds, *Democracy by Decree* tells a story worth reading. Slamming judicial activism is a popular hobby among conservatives. Sandler and Schoenbrod provide a valuable service by reminding us that not all the blame lies with judges. Undermining local democracy is a tag-team affair, and this book shows that Congress can be just as "activist" as any court.

Whose Bard?

After Shakespeare:
An Anthology
edited by John Gross
Oxford. 360 pp. $35.00

Reviewed by
Thomas L. Jeffers

In Jane Austen's *Mansfield Park* (1814), the charming and unreformable Henry Crawford says:

> Shakespeare one gets acquainted with without knowing how. It is part of an Englishman's constitution. His thoughts and beauties are so spread abroad that one touches them everywhere, one is intimate with him by instinct.

That sounds right for 1814. It even sounds right for 1914, when many British soldiers went to war remembering stirring political

Thomas L. Jeffers *teaches English literature at Marquette University. His "Plagiarism High and Low" appeared in the October* Commentary.

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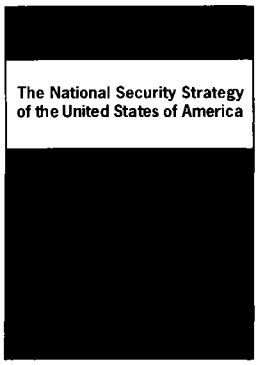

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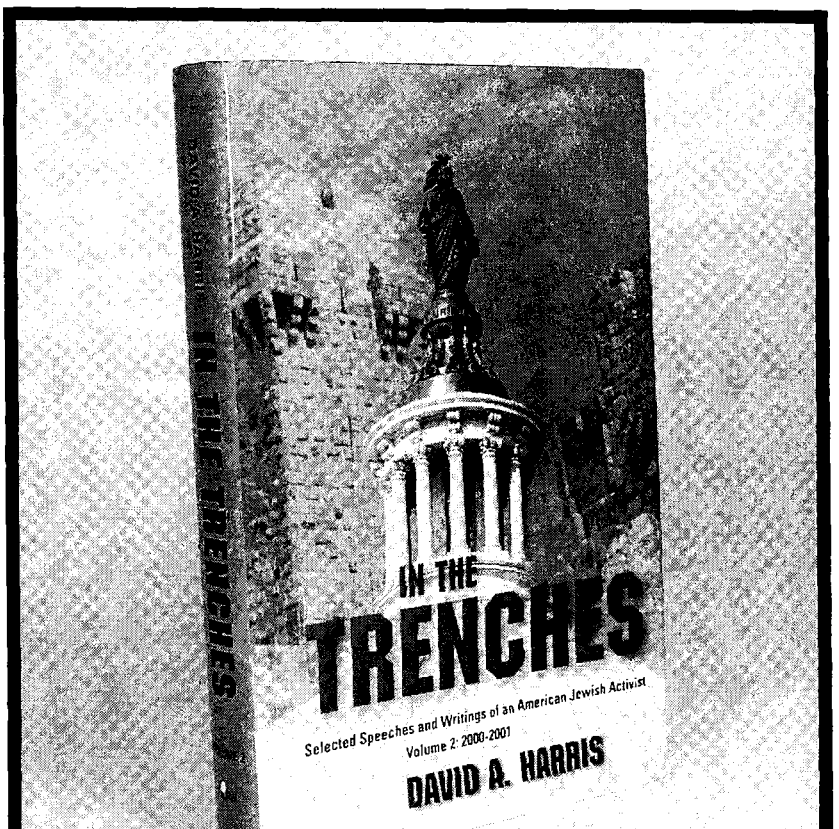

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speeches and no few grim descriptions of combat from *Henry V*. For several generations since that time, however, British dons have been doubting the portion of Shakespeare included in their students' constitutions, and teachers in America have wondered whether he is there at all. For university English departments, Shakespeare may have once been "the franchise" (in the sports metaphor of the critic Alvin Kernan), but under the constraints of multiculturalism, alas, students are getting fewer and fewer opportunities to develop any "instinct" for him, and when he *is* on the table they find it very hard going. As an undergraduate recently asked a colleague of mine who was presenting *Hamlet*, "Can we use a different translation?"

Such issues were in the back of my mind as I read through John Gross's marvelous new anthology, wondering who will be interested in such a gathering of poems and excerpts from fiction, drama, essays, letters, and diaries by accomplished and often famous literati focusing either on Shakespeare the man (1564-1616) or on his works, ideas, and cultural significance. The audience will surely be people who are already reasonably well acquainted with Shakespeare's major works and who, while they may have profited from academic criticism, hunger for responses more eloquently, wittily, and passionately written. Let us hope their numbers are still legion.

GUIDED BY William Hazlitt—"If we wish to know the force of human genius, we should read Shakespeare. If we wish to see the insignificance of human learning, we may study his commentators"—Gross, the former editor of the (London) *Times Literary Supplement*, has here lined up writers who themselves often have no mean claim to genius. When D. H. Lawrence talks metahistorically about Hamlet, August Strindberg misogynistically about Othello's wife Desdemona, and W.

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B. Yeats decadent-aesthetically about Richard II, they may not always shed much light on Shakespeare, but they beautifully give their own important selves away.

Many well-known but sometimes hard-to-find pieces are here: Leslie Stephens's essay on the hypothesis that Francis Bacon wrote Shakespeare's works, and Shakespeare Bacon's; Stephens's daughter Virginia Woolf's feminist invention of Shakespeare's sister Judith, who lacked his educational and vocational advantages and who killed herself while carrying an illegitimate child; something (too little, actually) of Tom Stoppard's serious parody of *Hamlet* based on the anxious perspective of the subordinate and "expendable" characters, Rosencrantz and Guildenstern; Oscar Wilde's personally-invested story of what he imagined was Shakespeare's amorous obsession with a boy-actor named Willie Hughes, the mysterious "W. H." to whom the *Sonnets* were dedicated; and so on. Out of his daunting store of knowledge and with generally unerring judgment, Gross has also plucked numerous less-well-known passages from a host of foreigners, including some Americans, whose scrutiny can frequently pick out characteristics of Shakespeare and his creations that an Englishman might miss.

As the English colonized other parts of the world, the Bard's poems and plays went with them. Alexis de Tocqueville, traveling in America in the 1830's, noted that most pioneer huts contained a few volumes of Shakespeare—an obvious sign of connection with England but also a gauntlet thrown at the feet of the young republic's own writers. The best of them in that decade, Ralph Waldo Emerson, felt the same filial ambivalence toward Shakespeare, his poetic father, as he did toward England, his political mother: owing a great deal to both, he also needed to declare independence.

Herman Melville in 1850 expressed the Emersonian faith that mute, inglorious Shakespeares were born everywhere, and that it was only a question of proper education, critical encouragement, and a measure of commercial possibility before they found their voices and achieved glory. Shakespeare unapproachable? "[W]hat sort of a belief is this for an American, a man who is bound to carry republican progressiveness into Literature, as well as into Life?" Melville's immediate subject in this passage was Nathaniel Hawthorne, and although Hawthorne may not have equaled Shakespeare, Melville thought that he came close, and that *some* American writer, the dew of Ohio or Vermont grass as wet to his feet "as Eden's dew to Adam's," would soon surpass him.

Walt Whitman in 1886 was not immodest enough to make such a claim for himself, but he made it thinkable—by insisting that an American poet play the game on his own court. Shakespeare's world, wrote Whitman, was mythologized, feudal, and walled-in by civilized artifice, while the American's world was scientific, democratic, and bristling with natural sublimities. The plays, moreover, were written from the viewpoint "of the elite of the castle," which was "altogether non-acceptable to America and Democracy."

Still, unlike the students at Stanford who shamelessly joined Jesse Jackson in chanting "Hey, hey, ho, ho, Western culture's got to go!," Whitman rightly understood that a point of view, whether of the castle, the marketplace, or the farmyard, did not by itself define the value of a work of art. In Shakespeare's case, there was also the poetry—"With Shakespeare," said Vladimir Nabokov, "it is the metaphor that is the thing, not the play"—just as there were the characters that the poetry brought brilliantly to life.

That these characters transcend whatever social hierarchy they were

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created or are read in says something about both the perdurability of human types and art's capacity for catching them. This is what 18th-century critics like Samuel Johnson meant when they praised Shakespeare as a poet of "nature," capable of portraying the miser or the hypocrite, the brave man or the coward, so that audiences "from China to Peru" could recognize, delight in, and learn from them. But Chinese and Peruvians also differ somewhat in their ways of recognizing, delighting, and learning—which is why it makes sense that Gross has sectioned off English, American, French, German, Russian, African, etc. responses to whatever Shakespearian question may be at issue.

Take politics, and in particular the French Revolution, the most important European event in the two centuries following Shakespeare's death. Readers wondering where the Bard would have stood turned obviously to the Roman plays like *Julius Caesar* and, better yet, *Coriolanus*, which vividly depict the struggle between autocracy and republicanism. As against a conservative critic like S.T. Coleridge, who regarded the savage Caliban of *The Tempest* "as an original and caricature of [revolutionary] Jacobinism," the liberal Hazlitt sought a more balanced view:

> Shakespeare himself seems to have had a leaning to the arbitrary side of the question, perhaps from some feeling of contempt for his own [poor] origin, and to have spared no occasion of baiting the rabble. What he says of them is very true: what he says of their betters is also very true, though he dwells less upon it.

Those last two clauses are crucial. Shakespeare may have sided with Coriolanus against the mob, but he also thought the Roman hero marred by pride, rather like the bad kings in his English history plays, which are themselves a fair complement to any course in political science.

The question of who "gets" Shakespeare arose again during the two world wars of the last century. The Germans had good reason to claim him as a forerunner of Weimar classicism, *Sturm und Drang* romanticism, or Nietzschean paganism. Not only had A.W. Schlegel translated the plays into a German that in its compressed beauties often challenges Shakespeare's own English, but Goethe, in *Wilhelm Meister* (1795-96), had made the plays, especially *Hamlet*, central to a young European's aesthetic and moral development, while in the 19th century Heinrich Heine had offered some of the deepest insights about Shakespeare that anyone ever had.

Pre-World War I German intellectuals tended to think that Englishmen were unworthy of their best poet, who surely would have favored the shopkeeping democracies less than the disciplined, imperial aristocracies. The Nazis, in the next war, agreed, but were also more uncertain about Shakespeare in general. Though they could hardly deny his popularity in their own country, they found the histories too English-patriotic and even *The Merchant of Venice*, so apparently correct on the Jewish question, unreliable. Gross cites a recent summation by the historian Gerwin Strobl:

> Apart from being not nearly anti-Semitic enough—[Christopher] Marlowe's *Jew of Malta*, largely unknown in Germany, was suggested as a "more powerful" alternative—there was the matter of Shylock's daughter [Jessica] marrying an Aryan youth. In deference to "contemporary sensitivities," Jessica [in Hitler-era productions of the play] tended either to become an adopted (Aryan) child bound for bliss in Lorenzo's arms, or stayed Jewish (and celibate).

And the Russians? Alexander Pushkin, Ivan Turgenev, and Fyodor Dostoevsky had some wise, and Leo Tolstoy some foolish, things to say about Shakespeare, but the one who did the most for him—translating the plays, prompting their production, and recreating the Elizabethan world—was Boris Pasternak. Gross gives him four entries, including this about the atmosphere of *Romeo and Juliet*, well caught in Franco Zeffirelli's film version (1968):

> Outside the windows ring the daggers of the quarreling clans, the blood of Capulets and Montagues streams in the streets, while in the kitchens, cooks' knives clatter and scullions squabble over the endless dinners. And under the hubbub of cooking and carnage, as under the thumping beat of a noisy band, the tragedy of hushed feelings is played out in silent, conspiratorial whispers.

That, written sometime between 1939 and 1946, is worth any four issues of a specialized journal like *Shakespeare Survey*, and the entire run of *Social Text*.

But this only reminds one that the war over who owns Shakespeare, and even over who if anyone should read him, and how, has been going on since—well, at least since 1601, when Robert Devereux, the Earl of Essex, and his allies induced Shakespeare's company to stage *Richard II* in hopes of gaining public support for their attempt to force Elizabeth into cashiering her "corrupt" counselors and firmly declaring King James of Scotland as her heir. It was no go: Essex literally lost his head.

But there is no reason for us figuratively to lose ours. One effect of this anthology, I sanguinely hope, will be that readers, especially in colleges and universities, will spend less time shipping arms to feminists, Marxian new-historicists, franco-Freudians, quarto-quarrelers, or parts-on-order deconstructionists, and more time reading the poems and plays with eyes washed clean by the pert, passionate, verbally agile insights of the writers Gross has wonderfully assembled. What comes after *After Shakespeare* should be Shakespeare himself.

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Leaving Many Children Behind

Chester E. Finn Jr. is a senior fellow at the Hoover Institution; a member of Hoover's Koret Task Force on K–12 Education; and president of the Thomas B. Fordham Foundation.

Question: When the public school system fox is placed in charge of the school choice henhouse, what happens? Answer: Not much choice.

When Congress passed the No Child Left Behind Act last year, it said that any child trapped in a federally aided public school that has failed for two straight years to make adequate progress toward its state's academic standards has a right to attend another public (or charter) school located within the same district.

This is a bobtail version of President George W. Bush's original proposal, which included private schools and public schools in other districts. But Congress balked at "vouchers." Then the education establishment pressed lawmakers to confine kids' options to schools in their present districts. Hence Los Angeles children have no right to enroll in the fine schools of Beverly Hills.

This halfhearted choice provision was supposed to take immediate effect for pupils in more than 8,000 schools that have already lingered for two years or more on their states' lists of education failures. School districts across America were flabbergasted to learn this past summer that they were expected to provide options for those millions of youngsters in 2002–3.

How did they respond? A handful behaved as they should. But many more balked and resisted, dawdling until it grew too late for kids to switch, ignoring the law entirely, or reinterpreting it in ways that suited them.

In a matter of weeks, Ohio whittled its list of failing Title I schools from 760 to 212—not by improving the others but by fiddling with test scores and standards Rural South Carolina districts claimed that they have so few schools that there is really nothing to choose among. Kentucky chose to wait until mid-September to finalize its list of eligible schools, aware that once the school year was under way, fewer families would want to move their children.

Besides foot-dragging, some communities faced genuine problems of capacity. In Baltimore, where 30,000 children are enrolled in failing schools, the district said it had just two hundred openings in better ones. In Chicago, a staggering 125,000 kids in 179 schools were originally deemed eligible to transfer, but the system somehow cut that list to fifty schools and then opted to "pair" these with other schools rather than giving kids a full range of options.

Despite such shenanigans, some youngsters changed schools. Denver estimated that as many as 5,000 pupils did so. When all is said and done, however, it was a few thousand poor children, not millions, who were able to escape bad schools for better ones. **The big story is the widespread flouting of the new law's intent—and a federal government that can do little to make recalcitrant states and districts mend their ways.**

What we are really seeing, once again, is how the public education establishment despises school choice, how little it will bestir itself to assist poor families trapped in failing schools to gain access to better ones, and how the hardball tactics it deploys keep lawmakers from adding more exit doors.

— *Chester E. Finn Jr*

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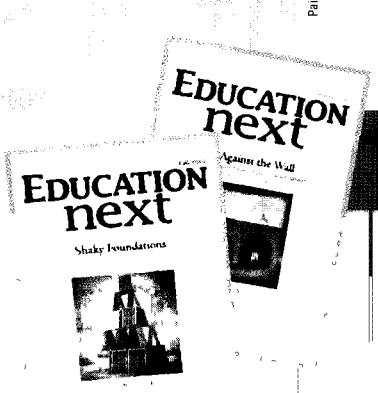

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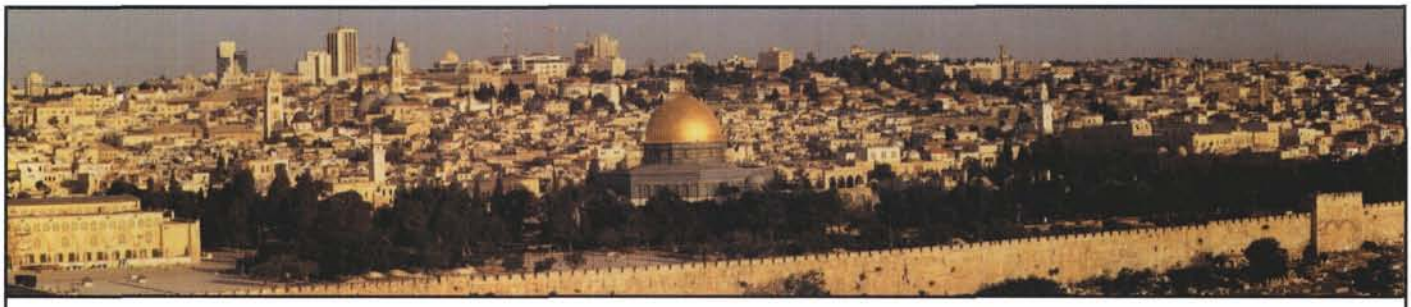

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